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COLLEGE AL.

COLONIAL HIGHWAYS
OF
GREATER NEW YORK

A DISCUSSION OF THE PRESENT
INTEREST OF THE CITY THEREIN

REPORTS
OF
HERMAN A. METZ, Comptroller
TO
Commissioners of the Sinking Fund

1907-1908

CITY OF NEW YORK
BUREAU FOR THE EXAMINATION OF CLAIMS
DEPARTMENT OF FINANCE

7-1-11

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DEPARTMENT OF FINANCE



NEW YORK

State of New York for

Be it remembered that on the fourth day of May 1866
in the year of our Lord and one thousand eight hundred and eleven before
me De Witt Clinton Mayor of the City of New York
personally appeared Simon De Witt known as the signer
of the Certificate to his Map and acknowledged that he had sub-
scribed his name and affixed his seal thereunto pursuant to and
for the purposes expressed in the act therein mentioned.

De Witt Clinton

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Colonial Highways of Greater New York.

MEMORANDUM.

CITY OF NEW YORK—DEPARTMENT OF FINANCE, }
COMPTROLLER'S OFFICE, }
August 1, 1908. }

The matters which come before the Department of Finance of The City of New York are almost as varied as the whims of men and the caprice of legislatures can suggest. A great deal of the work is technical, much of it dry, and therefore not particularly interesting to the public in a journalistic sense. Should the public eye follow the columns of the CITY RECORD there would doubtless appear many things that would not be clear in the public mind. It might, for example, wonder why the City should employ somebody to delve into the history of forgotten centuries and endeavor to trace the origin of old roads. Therefore, a word of explanation seems necessary.

As a legal proposition, speaking generally, all the roads laid out by the Dutch during their sovereignty here were owned in fee by the government. The City of New York, as successor to that government, therefore, owns the fee of such roads unless the ownership has been conveyed. On the other hand it is held by some able lawyers that the government did not as a rule own the fee of English roads, but enjoyed only an easement for road purposes, a reversionary interest remaining in the adjoining owners on either side. There are many ramifications of the question, but this is, in rough, a general outline of the legal views of the matter.

It should be added, however, that there is able legal opinion which does not accept the view expressed as to English roads without very material qualifications.

As the City has grown new streets have been extended into territory traversed by the old roads, and the usefulness of the old roads as highways has, in many cases, ceased. In other instances they have been made a part of the present street system. Upon the abandonment of the old roads it appears that the lands included within their lines were frequently appropriated to private uses.

In late years when the holder of such a parcel has sought to borrow on his land, question has been raised by title companies and other conveyancers as to the ownership of the old roads. After such objection it became customary to file a petition with the Commissioners of the Sinking Fund reciting that the City had no substantial interest in the road but might have some right which would constitute a cloud on the title to the property. The petition would then pray for a release of the public interest.

The reports prepared for the Corporation Counsel usually amounted to a remodeling of the statements of the petition, with no new facts to show what interest the City really did have. On such reports the Corporation Counsel customarily rendered opinions that the interest of the City was merely nominal and a release of the City's interest was granted for \$1, with \$100 added for the expense of investigation. The properties varied in size, but many were of considerable area.

It did not seem to me that the interests of the City were properly protected and an investigation was ordered. If it could be shown that roads were of Dutch origin an important advantage could be gained. That is why the City delved into the past. The

results so far have been gratifying. With facts before him the Corporation Counsel has swept aside the old stereotyped form of opinion showing a nominal interest in the City, and has held in several cases that the City has a material interest in these old roads.

The investigation has naturally been attended by much difficulty and considerable delay, but most of the principal roads have now been covered, and in future the work will progress more rapidly.

The investigation has also made it apparent that the City should take some definite steps toward reclaiming its old records. Matters of modern moment are often dependent upon some ancient instrument, and care should be taken to preserve the old documents, because they can never be duplicated or replaced if lost.

II. A. METZ, Comptroller.

BUREAU FOR THE EXAMINATION OF CLAIMS,
CITY OF NEW YORK—DEPARTMENT OF FINANCE, }
July 8, 1908. }

Hon. HERMAN A. METZ, Comptroller:

SIR—IN accordance with your direction I have collected the old road reports and present them for publication in convenient form for the use of the Law Department and others who may have occasion to refer to them.

This collection does not attempt to embrace all the old roads that laced the settlements in the early days. Within the borders of Kings County alone there were eighty-six roads which in the course of time may have to be reported upon. In this work, however, the investigation has been directed to those roads in which the interest of the City is most frequently sought to be released. Those that have been treated are of major importance and while it would hardly be correct to refer to others as of minor importance, the determination of the interest of the City being in all cases of equal value, I believe that a final determination of the character of these roads will facilitate the finding of the public interest in the class of cases arising most frequently.

I am under obligations to many persons for courtesies shown me in the course of this investigation, but I desire especially to make acknowledgment to the attaches of the office of the Commissioner of Records in Kings County by whom unvarying courtesy has been extended throughout the examination.

I am, however, most deeply indebted to you for the aggressive support without which the entire undertaking would probably have failed. I desire to say that if any benefit accrues to the City from the reports that I have had the pleasure to write, that benefit is due directly to you. When you instructed me to take

up this matter, you were good enough to repose entire confidence in me. Apart from that fact the search was undertaken under most discouraging conditions, for the move was not a popular one. I have to thank you for the generous manner in which you have supported me in every dispute, for the close personal interest with which you have followed my investigation and the unwavering course you have pursued in protecting the interests of the City.

I feel that discussion of this subject would be incomplete without extending my thanks to the Hon. N. Taylor Phillips, Deputy Comptroller, whose wide knowledge of the legal aspects of the subject has always been open to me and whose advice has ever been cheerfully and readily given.

The maps which accompany these reports are intended merely to show the general location and direction of the various roads and they do not purport to be drawn to any scale showing the relative width of streets and roads. The maps showing the Kingsbridge and Boston Post Roads are taken from the original Commissioner's map of 1811. In this it will be noticed that the Kingsbridge and Boston Post Roads appear to be the same in certain sections. Both seem to have been names applied to the ancient road known as early as 1669 as the Road to Harlem. It will be found that many old roads are very much older than their popular names.

Respectfully,

ROBERT JORDAN, Examiner.

Approved:

F. J. PRIAL, Chief Examiner.

BENNETTS OR CORTELYOU LANE.

Length, 7-10 of a Mile. Intersects 7 Blocks.

Bennetts lane is one of the oldest roads in Brooklyn. It was used by the Dutch during the period of their occupation here, and has been used as a highway since those days. It extends from the Kings Highway to Gravesend Bay, a short distance west of De Bruyns lane.

During the Dutch occupation a patent for land lying at the intersection of Kings Highway and Bennetts lane was issued to one De Sille. While the roads were not then known by those names, the boundaries of the patent have been located and the identity of the roads established. The records of New Utrecht under date of January 22, 1660, refer to Bennetts lane as the Shore road.

Another evidence that Bennetts lane is a Dutch road may be gathered from a brief reference to the circumstances attending the surrender of New Amsterdam. The expedition sent out by the Duke of York to occupy the territory granted to him by Charles II. was carried in four ships of war which the King loaned for the enterprise. The expedition landed at Boston in order to give color to a fiction emanating from the Crown that the purpose of the affair was to look after certain religious matters in Massachusetts.

Colonel Nicols, who commanded the fleet, detached two ships and sailed for New Amsterdam, where he caused it to become known that while the Duke of York wanted the title to New Netherland, he was willing to let the Dutch continue in the enjoyment of customs and property. The Dutch rule had become irksome to the settlers and they were secretly glad to change rulers, so long as their private affairs were not disturbed.

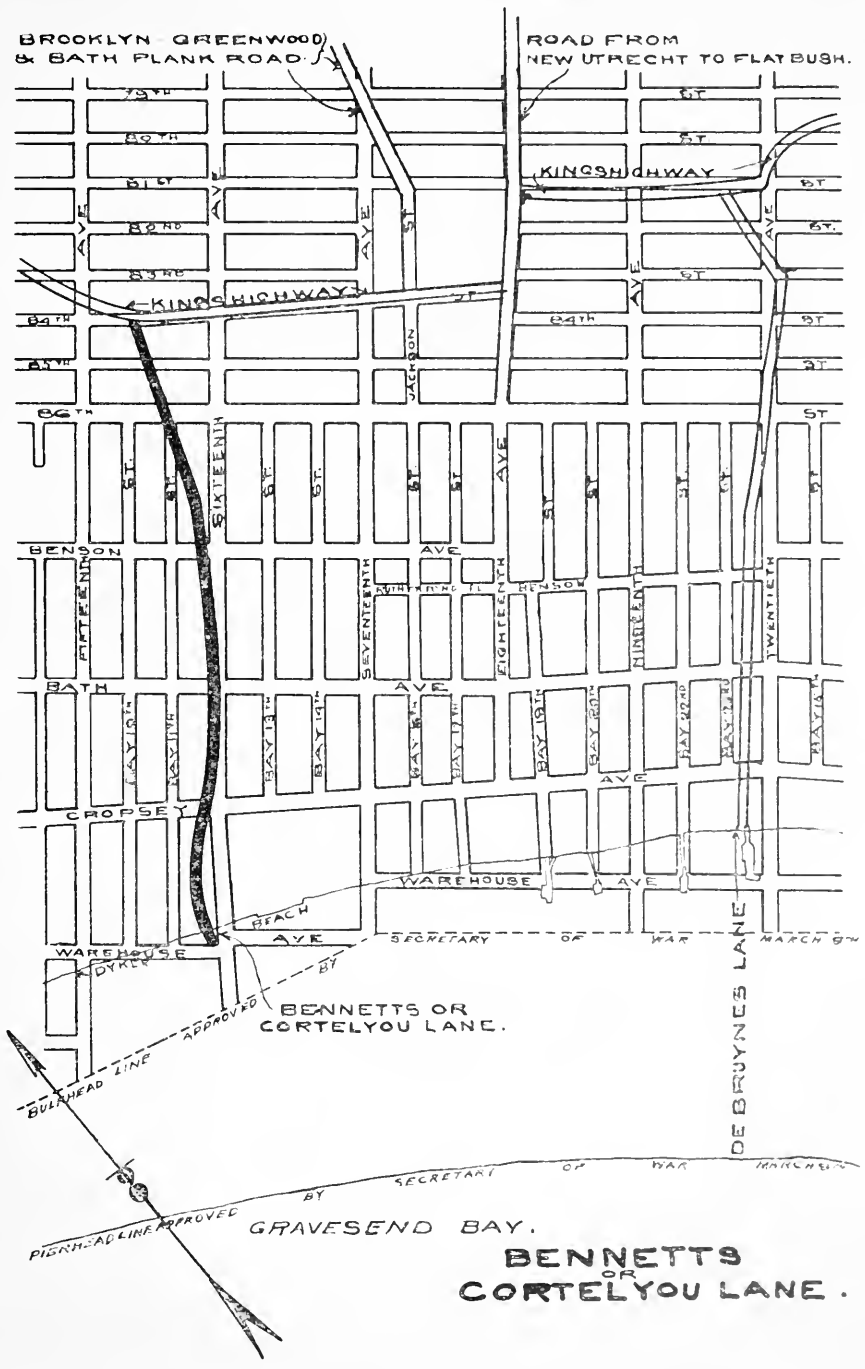
Hence, when Governor Stuyvesant appealed to the Dutch towns on Long Island for help, they declined to grow enthusiastic, and Stuyvesant was compelled to look elsewhere. All of the foregoing may appear foreign to the subject of Bennetts lane, but the connecting link is here.

While Nicols was in Boston he arranged to have a detachment of English troops march down and rest at the Ferry Settlement (Fulton Ferry) in Brooklyn. Upon Stuyvesant's refusal to surrender, Nicols withdrew his ships to Gravesend Bay, and there landed a detachment, which marched up and joined the force at the ferry. There were at that time two roads connecting the bay with the main road or Kings highway at the points where the expeditions would be most likely to land. One was Bennetts lane and the other De Bruyns lane. By using Bennetts lane, the march might have included a peaceful demonstration in the town of New Utrecht, and would have placed the troops in a position to strengthen any wavering settlers in the towns intervening between that point and the ferry.

Under authority of a resolution adopted by the Board of Supervisors of Kings County on December 27, 1892, Sixteenth avenue was opened from Eighty-fourth street to Gravesend Bay. A part of this street was within the lines of Bennetts lane and part was not, with the result that in certain sections, a strip of Bennetts lane intervenes between the line of Sixteenth avenue and the property of abutting owners. On May 4, 1900, the Board of Estimate and Apportionment adopted a resolution closing Bennetts lane from Eighty-fourth street to Gravesend Bay. Since then several applications for releases of the intervening strip have been filed.

In the proceeding for the opening of Sixteenth avenue, as shown by papers on file in the County Clerk's office, the owners of property so situated received no award for damage, because none of their property was taken, but, on the other hand, the Commissioners took into consideration that owners on the northeast side of Sixteenth avenue (where the strip is) were not benefited to the same extent as those on the other side, so the portion of the assessment that would logically have been levied on property within the lines of Bennetts lane was distributed over the whole area of assessment. This arrangement was considered by the Commissioners to be the most equitable way of distributing the assessment, according to an affidavit made by Douglas Gubner, one of the Commissioners, on February 12, 1894, which is on file with the papers of the proceeding in the office of the County Clerk of Kings County.

Certain owners on the northeast side of the lane claim that they are entitled to either a frontage on Sixteenth avenue or to damages for the closing of Bennetts lane. Whether the action of the Commissioners in relieving such owners of a portion of the assessment may be regarded as sufficient to overcome this objection is a legal question that should be referred to the Corporation Counsel.



BENNETTS OR VAN BRUNTS LANE.

Length, 5-10 of a Mile. Intersects Five Blocks.

Some confusion has been created because there is another Bennetts Lane at no great distance from this—that other lane is known as Bennetts or Cortelyou's. It extended from the Kings Highway to Gravesend Bay. Bennetts or Van Brunts Lane, which is now under consideration, connected the main road with the upper bay, and ran through the section now included between Seventy seventh and Eighty fifth streets, in Brooklyn.

The first authentic reference that the Experts of Commissioner of Records in Kings County have found to this lane is in the Road Record of 1704, where the lane is referred to as "One Common Highway." This was long after the Dutch Sovereignty had ended, and so, according to records thus far at hand, this lane would come under the designation of an English road as distinguished from Dutch.

It is held by able legal opinions that while the fee of a Dutch road remains in the City, unless it has been conveyed by proper authority, there is a reversionary interest accruing to owners abutting on an English road, and that the public exercises an easement, but does not possess the fee.

From what I have been able to gather it appears that this opinion is based on the theory that, as the land for the highway had to be taken from somewhere, the presumption is that it was carved out of the lands which subsequently abutted upon it, and, therefore, when its life as a road or highway ended it reverted again to those from whom it was supposed to have been taken.

Land must be owned, but it must not necessarily be owned by individuals. Thus it does not always follow that a present abutting owner is the successor in title of some individual whose land was taken for a road or a highway under such conditions that a reversionary interest would attach. In very early days when the country was rough and wild, individuals gathered in more or less isolated communities, between which were wide stretches of primitive country. Yet the very necessity for communication between such points created roads. Who were the abutting owners along these? This condition is referred to by the Court of Appeals (*Dunham vs. Wilkens*, 37 N. Y., 253), in an opinion regarding the ownership of the road leading from Flatbush and Jamaica to the Brooklyn Ferry the Court referring to the road, said: "It was laid out before the settlement of the intermediate lands, and when there were no adjacent proprietors."

From the nature of the case and the discussion preceding this extract it is evident that the Court referred to adjacent owners in the individual sense. If there were none of these, it seems reasonable to assume that the adjoining lands, which had to be owned by some authority, were the property of the government.

It is true that the road referred to there was a Dutch road, but the point regarding the possibility of there being no adjoining proprietors of an individual character seems to apply with equal force to either period, be it English or Dutch.

On this point the opinions of Justice Murray Hoffman, as expressed in his "Treatise on the Estates and Rights of the Corporation," are of special value. It is only necessary to say that Judge Hoffman's work is accepted and quoted as authority by the Court of Appeals (*Dunham vs. Williams*).

In the second edition of the work, published in 1862, Judge Hoffman discusses the title of streets in Section XI. In this the author divides the history of the acquisition of any estate or power relating to streets into four periods: First, from the settlement of the City to the surrender in 1664; second, from 1664 to the Charter of 1686, and the Colonial Act of October, 1691; third, from that date to the great street system of 1807 and the statute of 1813, laying out streets, etc., and fourth, from that time to the present.

From a careful examination of the facts and law relating to the first period, he concluded that two propositions may be sustained. First, that the absolute right and title to the soil occupied as a street prior to 1664 vested in the government and came down to the Corporation of The City of New York.

This second conclusion is this: P. 393.

"That an estate in fee to the soil of any street opened after 1664, and opened through lands comprised in a grant of the Dutch government made before that date, has become in like manner vested in the corporation. That it is so vested whether such street was opened by public authority, with or without compensation to the owner; and also whether the street was first laid out as a private way and afterward accepted as a public street, or was originally laid out as a public street. I regard this rule as applying to every street laid out, down to the year 1813."

The author in discussing his second proposition in more detail, says: Page 312:

"I have before shown that the ground briefs were valid sources of title, even without an English confirmation. The lands covered by such briefs were granted and held at the period of the surrender, subject to the right of the public authority to lay out streets through them, with or without compensation, and were held subject to the settled rule that where streets were so laid out, the fee in the soil passed to the government. The English succeeded to the public rights of the Dutch. I cannot conceive a just reason for supposing that this substitution changed the character of the tenure in this particular. Admit to its utmost extent the doctrine of the English publicists that the surrender was a restoration and not a conquest, and that the whole legal consequences of a title by discovery attached to the colony, yet indisputably the right of property under Dutch grants was saved and guaranteed by the article of surrender referred to, and as every essential estate and right of the grantee remained unimpaired and the same, so every condition or burthen attendant upon that estate continued unchanged.

"I regard it as a necessary conclusion, that grantees were to hold thereafter, with the same public servitudes, because they were to hold with the same rights.

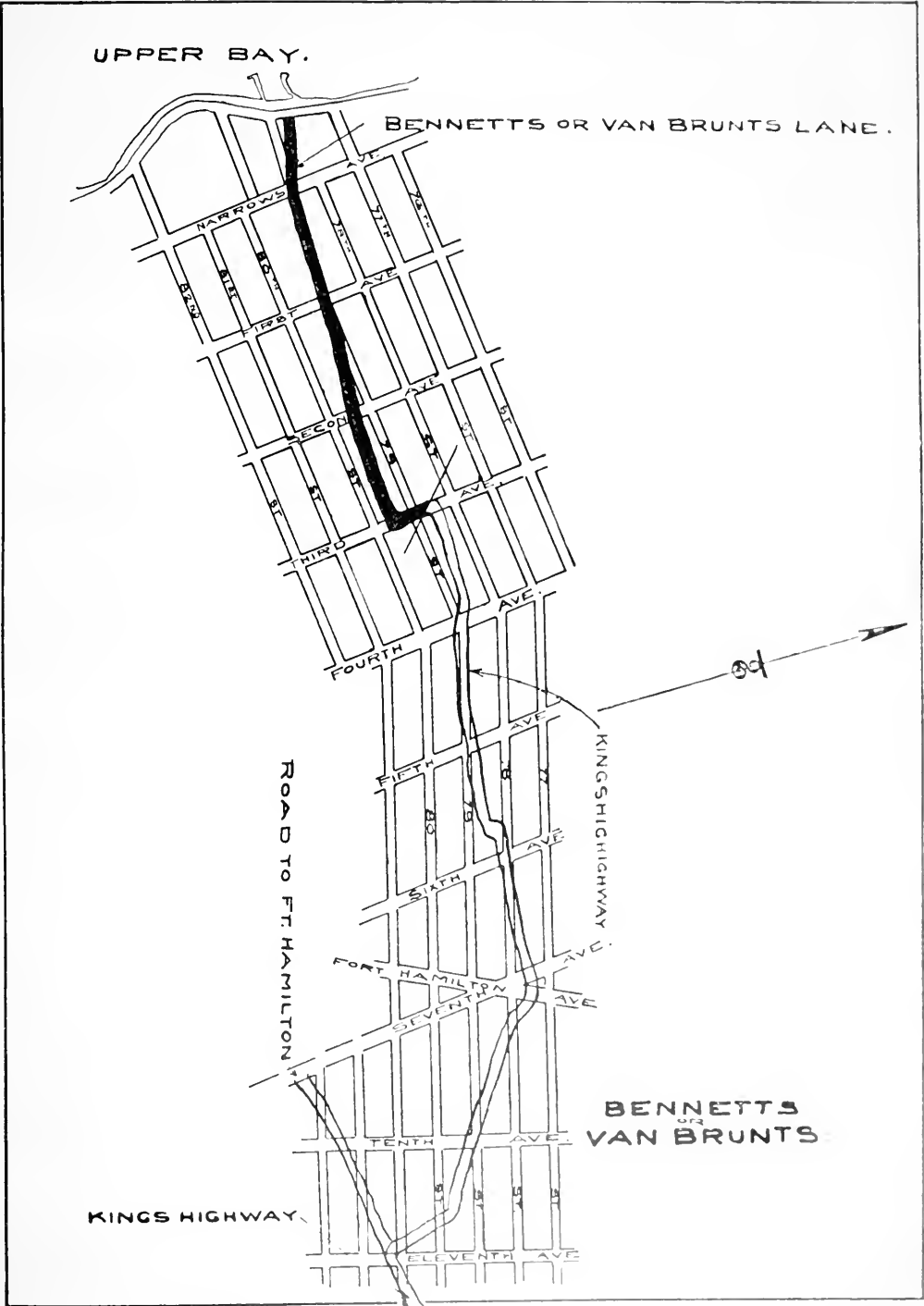
"I submit then that it is established that the fee to every street opened at any time after the surrender and opened through land comprised in a Dutch grant brief vested in the then existing government or its grantees, unless a different rule has been established by express law. None such, I am persuaded, can be found." Page 313.

On November 22, 1652, the Indians conveyed to Cornelis Van Werckhoven a large tract of land in the New Utrecht section. The land conveyed in that transaction embraced the land through which Bennetts lane was made at a later date.

Van Werckhoven returned to Holland to perfect plans for settling the tract, and died there. On January 16, 1658, the successors of Van Werckhoven applied to and received from Governor Stuyvesant permission to found a town. Confirmations of this were issued by Governor Nicolls on August 15, 1668, and by Governor Dongan on May 13, 1686.

On May 20, 1903, the Board of Estimate and Apportionment adopted a resolution, approved by the Mayor June 17, 1903, closing all parts of Bennetts or Van Brunt lane, between Third avenue and Shore road, not included in Seventy ninth street.

The questions raised by Justice Hoffman are introduced here because this is the first English road that has developed during the investigation of the subject. The contentions of the learned judge involve legal questions of an important nature, and I would therefore suggest that applications for releases along Bennetts or Van Brunt lane be referred to the Law Department.





OLD BOSTON POST ROAD.

Permit me to state in the beginning that this report is not as thorough as I would desire to have it, but the condition of the old records is such that a prolonged search will be necessary before complete satisfaction can be approximated.

This road was first known as the wagon road between New York and Harlem. The records of New Amsterdam, volume 6, page 350, under date of 1671, contain the following:

"The Court do empower Mr. Cornelis Van Ruyven and Mr. Isaacq Biddloo, Aldermen, to cause the former orders in making of a good Waggon path betwixt this City and the Town of Harlem to be put into strict execution, whereof an Ample Order shall be given unto them."

At page 361 this statement is printed:

"Whereas the Honble. General has at divers times recommended to this Court and this W. Court has ordered the Overseers as well of Haerlem as the suburbs hereabout to construct the road between this place and Haerlem, notwithstanding which it is still found unfinished, for which reason many complaints have been lodged by the people wishing lately to travel over that road on horseback have been in danger of losing their lives by the neglectful keeping of the said road; which together with other reasons has moved the Honorable General to earnestly recommend to us again the construction of the aforesaid road, in order that then the work may be promptly commenced and Executed. Therefore, as for the prosecution of so necessary a work, the W. Court cannot hit on a better expedient than to commission two from their Bench of Justice, as they hereby do, to summon as often as they shall think fit, touching the work. The overseers as well of Haerlem as the suburbs dwelling hereabout, shall propose to them in the first place, how very ill it has been taken, that the former orders regarding the aforesaid road have not been better observed: Secondly, the earnest intension of the Honble. General and this W. Court, that such shall be done without any neglect, be executed; which being done, to provide means how and in what manner such should not only be completed, but also kept continually in good repair, and, in our opinion it would not be improper to make the Overseers of the suburbs hereabout Supervisors of the part those of Haerlem shall have to manage, and the overseers of Haerlem Supervisors of the part of Suburbs hereabout must be put in repair; and for the prosecution of the aforesaid are recommended approved."

Alderman Cornelis Van Ruyven

" Isaacq Biddloo

Who are hereby specially authorized with the Overseers of the part of suburbs hereabout, who, when summoned, shall neglect to appear or to send any one, and to neglect the same as they shall deem proper for the advantage of the said suburbs hereabout."

Meeting of the Worship Mayors Court in the City Hall of the City of New York this 13th February."

It will be noticed that while this official action bears date of 1671, it is recorded that the Honorable General had at divers times recommended the improvement of the road and that part of the road had been started and remained unfinished, all of which shows that the road was in existence at an earlier period.

Judge James W. Gerard, whose works on titles to real estate are regarded as standard authority, makes the following statement regarding the road from New York to Harlem at page 303 of his work on the water rights, title to streets, etc., of the corporation of The City of New York:

"Commissioners appointed in 1660, 1671, 1672, to lay out a wagon road between New York and Harlem. In 1679 a return was made stating that they had staked out the highway and appraised the land taken at 20 guilders per rod.

"This road branched off the Kingsbridge road just after the latter crossed Turtle Creek for the second time. It crossed the present Harlem Bridge and was also called the Boston Post road; afterward the whole of the road from Twenty-third street to Harlem was known by that name."

Although all the dates are after the surrender of the Dutch, the references indicate an earlier existence of the road. It will also be noticed that the Commissioners who were appointed made awards for the lands taken, so it becomes an interesting question whether these proceedings did not of themselves vest a fee in the government of which The City of New York is successor.

Beginning in 1790, this road became identified with a series of legislative acts which indicate that it was paid for by public taxation. Chapter 37 of the Laws of 1790 authorized Lewis Morris to construct a bridge from Harlem to Morrisania. The Commissioners of Highways were authorized to lay out a convenient road from any part of the main road leading from The City of New York to Harlem River at the bridge then authorized. Commissioners were appointed to lay out a road four rods in width from the bridge through the Towns of Morrisania, Westchester and Eastchester until it should strike the main road in Eastchester.

Morris assigned the grant to John B. Coles on March 25, 1795. Coles secured permission of the Legislature to construct a dam across the Harlem River to impound water for the use of mills. This act also provided for the completion of the bridge within four years; that Coles and his heirs should keep the bridge in repair for sixty years, after which it should vest in the people of the State (chapter 31, Laws 1795).

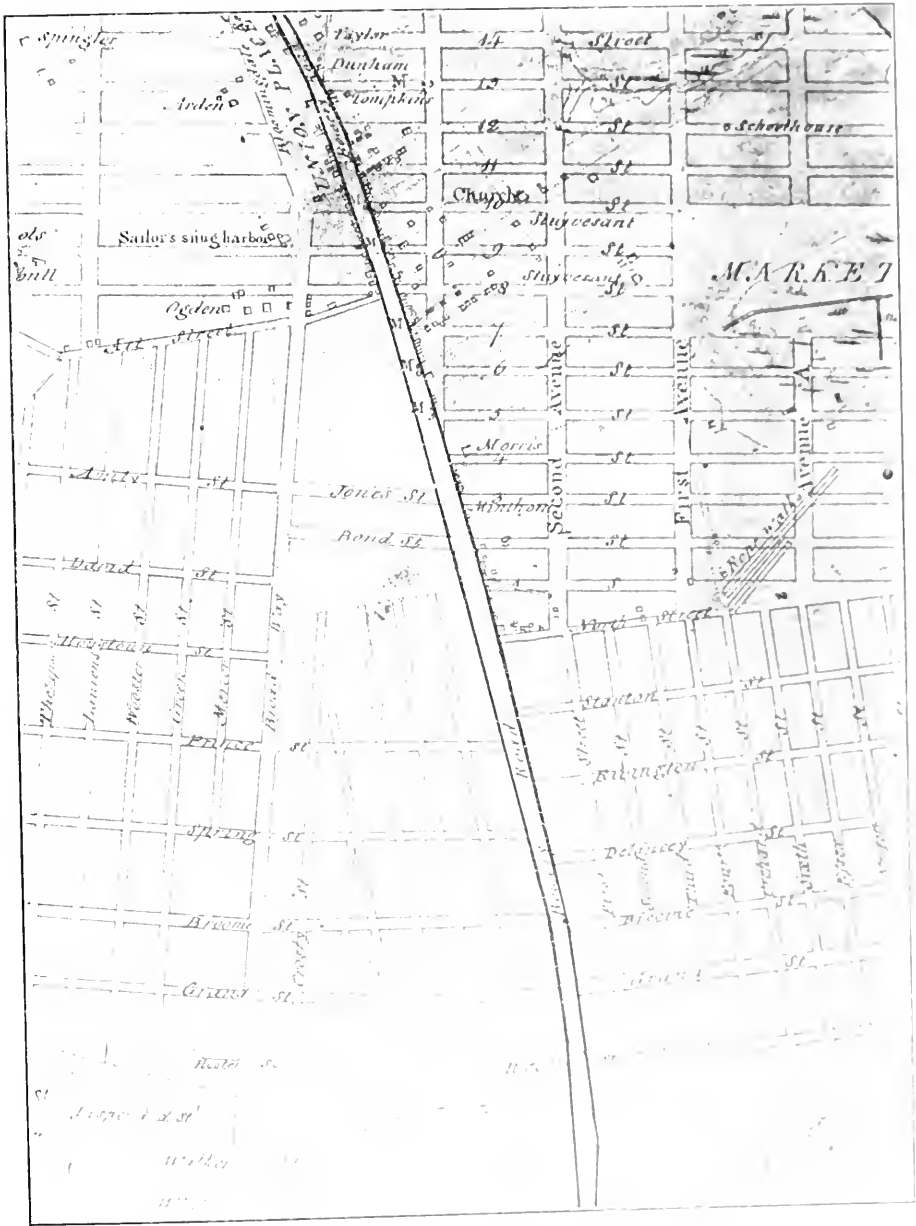
It appears that the bridge was built and part of the road laid out, but awards were not paid for the lands taken. In 1797 the Legislature directed that the road be established as a public highway. Coles was authorized to collect additional toll for thirty years and he was to keep the road in repair (chapter 63, Laws 1797). The year following Coles was relieved of some of his responsibilities and his tolls cut down (chapter 74, Laws 1798).

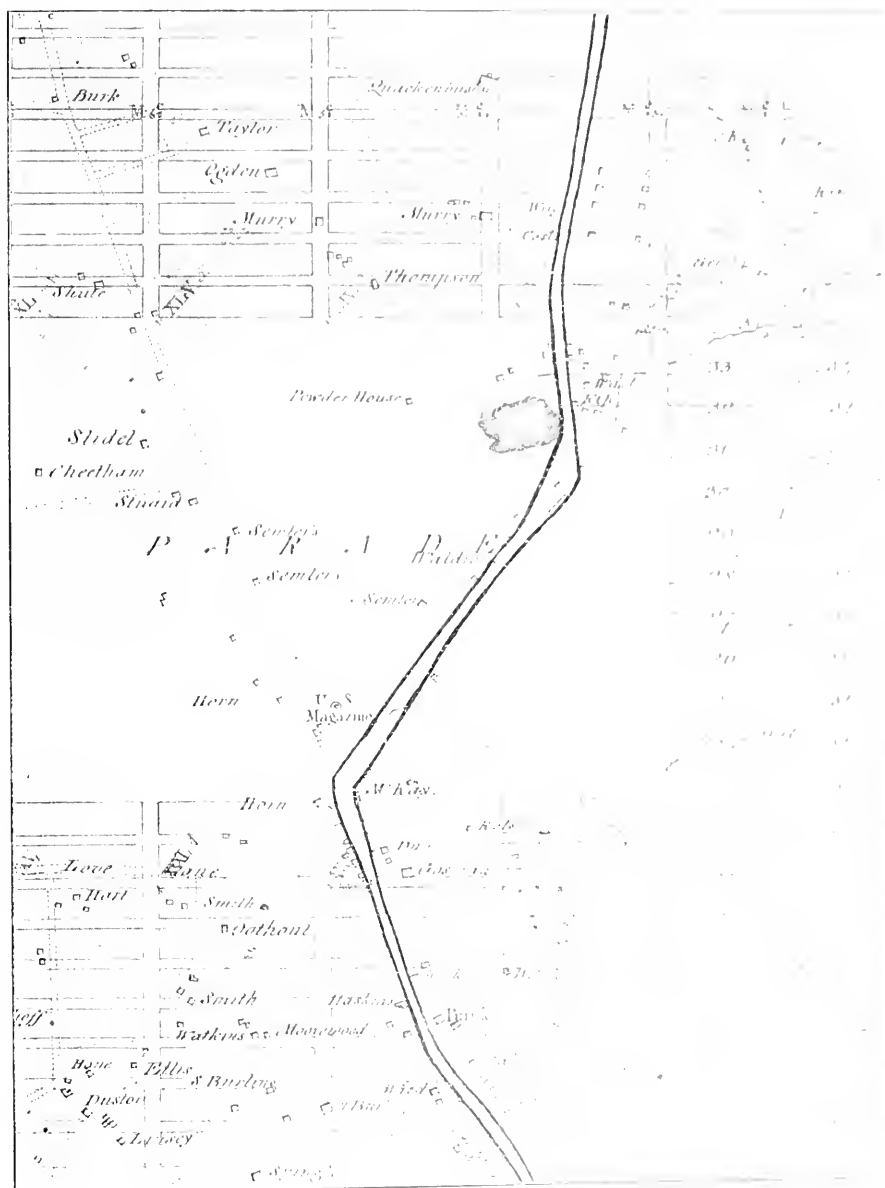
In 1797 an act was passed providing for the improvement of several roads, and the road from Coles Bridge to Eastchester was one of them. The money to meet these improvements was raised by a lottery authorized by the Legislature in 1797. In 1808 the Legislature incorporated Coles and his associates under the name of the "Harlem Bridge Company." In 1857 the Legislature passed an act reciting the fact that on April 1, 1858, it was to become a free bridge, to be maintained by the Counties of New York and Westchester.

It would seem from the act of 1790 that the intention was to have the towns bear the expense of laying out the road. It is contended, however, that such awards were not paid. The lottery, however, authorized in 1797 would also seem to indicate that the public bore the expense of improving the road.

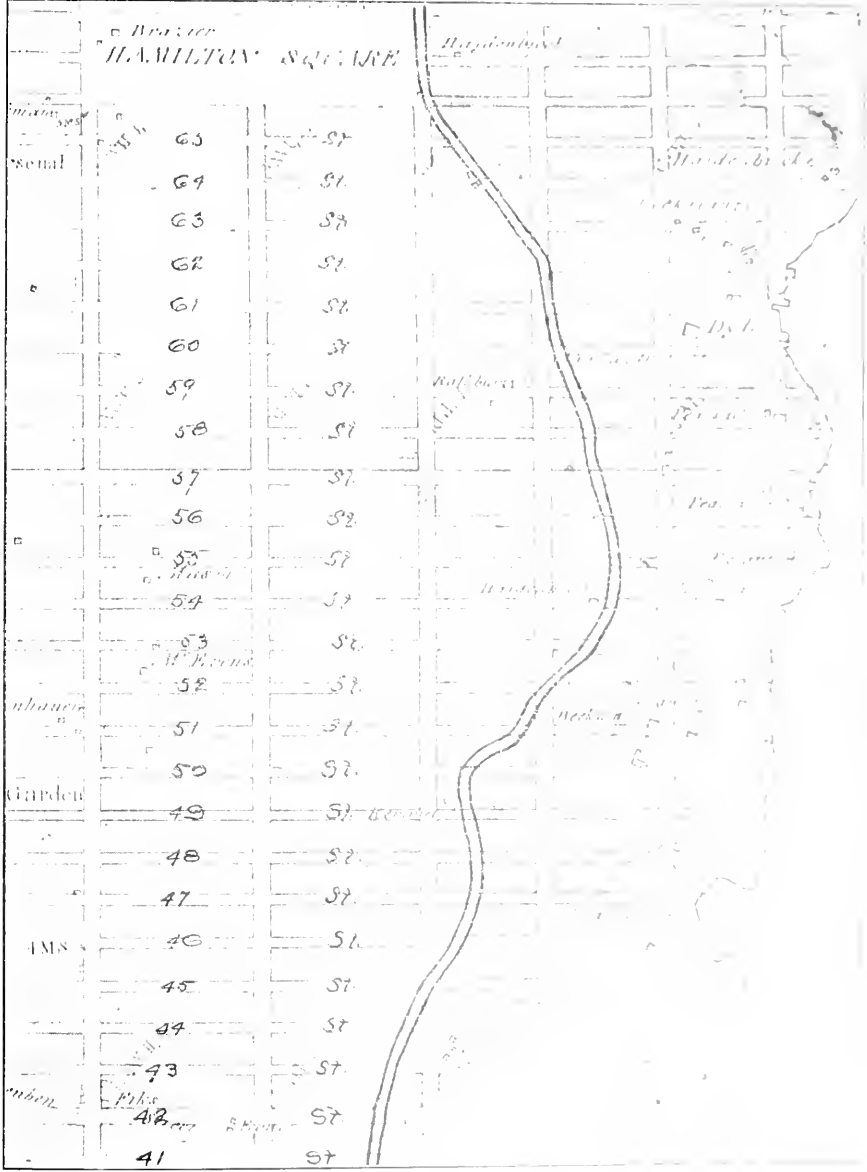
Whether, in view of all these circumstances, The City of New York as successor of the various towns, acquired a fee or merely an easement in the road is a question which should be referred to the Corporation Counsel for an examination of the various acts relating to the matter.

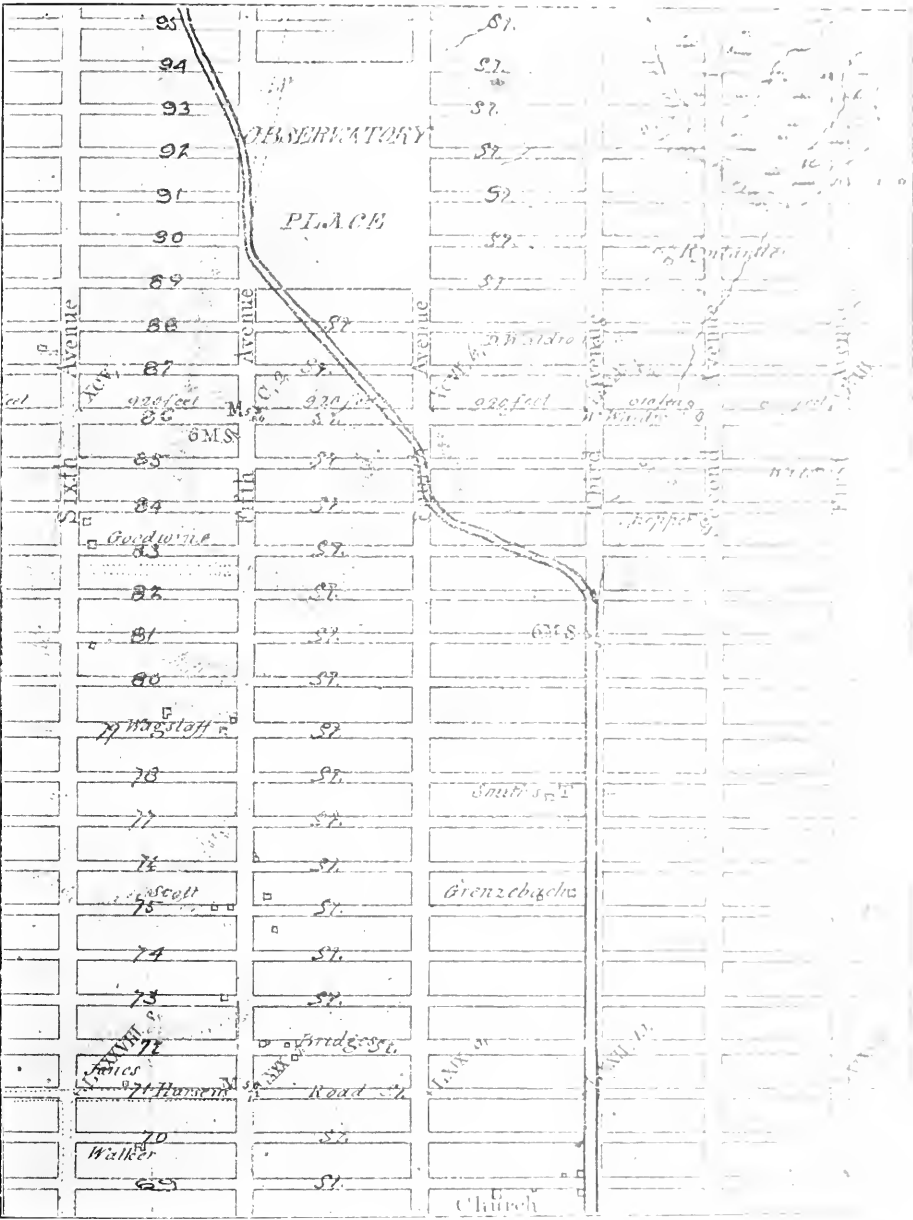






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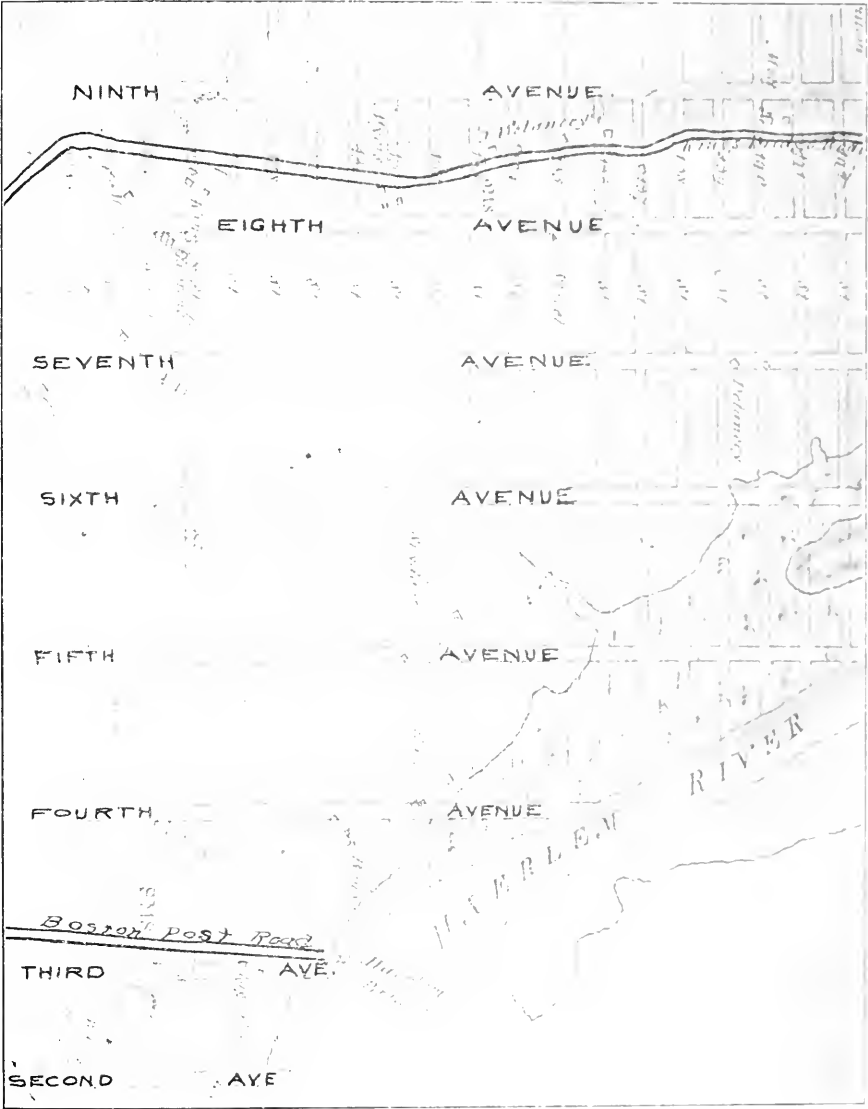




KINGSBRIDGE ROAD—BOSTON POST ROAD



KINGSBRIDGE ROAD BUS STATION



KINGSBRIDGE ROAD - BOSTON POST ROAD

BROOKLYN, GREENWOOD AND BATH PLANK ROAD.

This is not an old road in the sense that Colonial highways are regarded as old roads. Indeed, this is quite a youthful highway compared with some of those that have been considered in these reports.

The first reference found to this road is on January 15, 1831, when several citizens of New Utrecht petitioned the Commissioners of Highway to lay out a road "to be a continuation of the road now leading from Flatbush to New Utrecht Church, and to continue as nearly as may be in the same direction until it reaches the bay or river, passing through the land of John L. Van Pelt and Engelbert Lott, and along the bank of said bay or river, or as near as will answer, through the land of Engelbert Lott and Turnbull, until it meets the road or highway in front of the house of Jacob W. Bennett." This was subscribed before James C. Crisp, Justice of the Peace.

On July 28, 1831, Commissioners acted favorably on the petition and ordered the road laid out. On August 17, 1831, John L. Van Pelt and Engelbert Lott appeared to the Court of Common Pleas, protesting against the laying out of the road. A complaint was made on several grounds. On September 12, 1831, the Court of Common Pleas reversed the order of the Highway Commissioners.

Four years elapsed during which nothing was done apparently, but on October 10, 1835, a meeting was held in the house of Michael Hegeman of New Utrecht, where the petition of several freeholders was considered, and the Commissioners of Highways directed that a public highway be laid out from "the road leading from Flatbush to New Utrecht, near the Dutch Reformed Church," to the bay or river. The road was to be cut through improved land of the following owners, the figures showing the amount of land to be taken from each as figured by Lewis G. Bergen, Surveyor:

Owner.	Acres.	Reels.	Perches.
John L. Van Pelt.....	100	1	0
Heirs of Reutgen Van Brunt.....	100	1	0
Engelbert Lott, deceased.....	100	1	0

Apparently this was satisfactory, for it does not appear that any further protest from those who before appealed to the Court was made. The matter was set aside.

In 1851, on February 20, a movement was started by the Commissioners of Highways in which the following appeared:

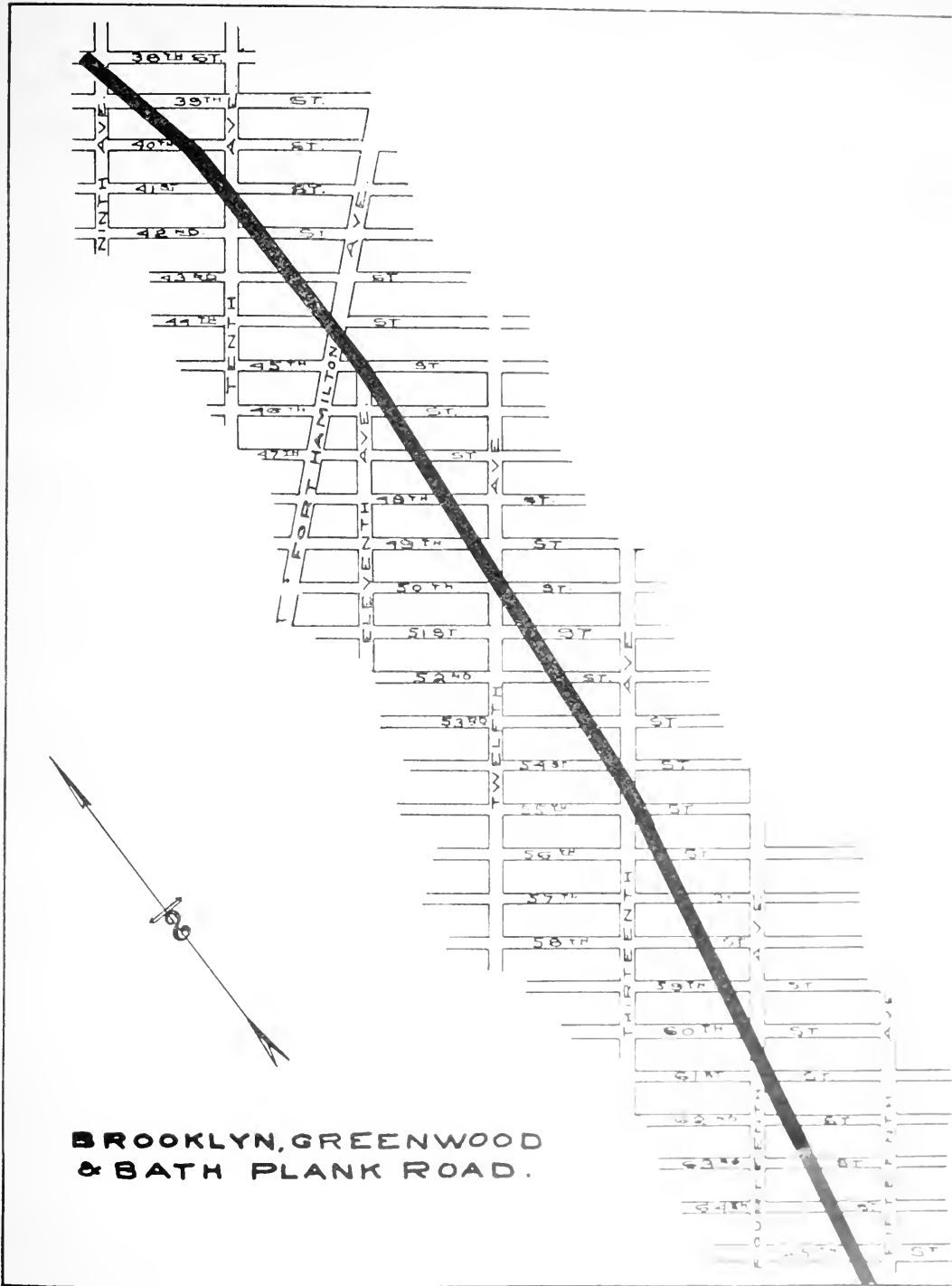
"The undersigned owners are interested in lands through and over which the proposed highway described in the above (petition) runs, hereby consent to the laying out the same, and in consideration of the benefits therefrom accruing, hereby release to the Town of New Utrecht all claim to damages by reason of the laying out and opening said highway, on condition that we are allowed until the 1st day of March, 1852, to remove our wood and reset our farms." This was signed by James L. Lefferts and seventeen others and sealed.

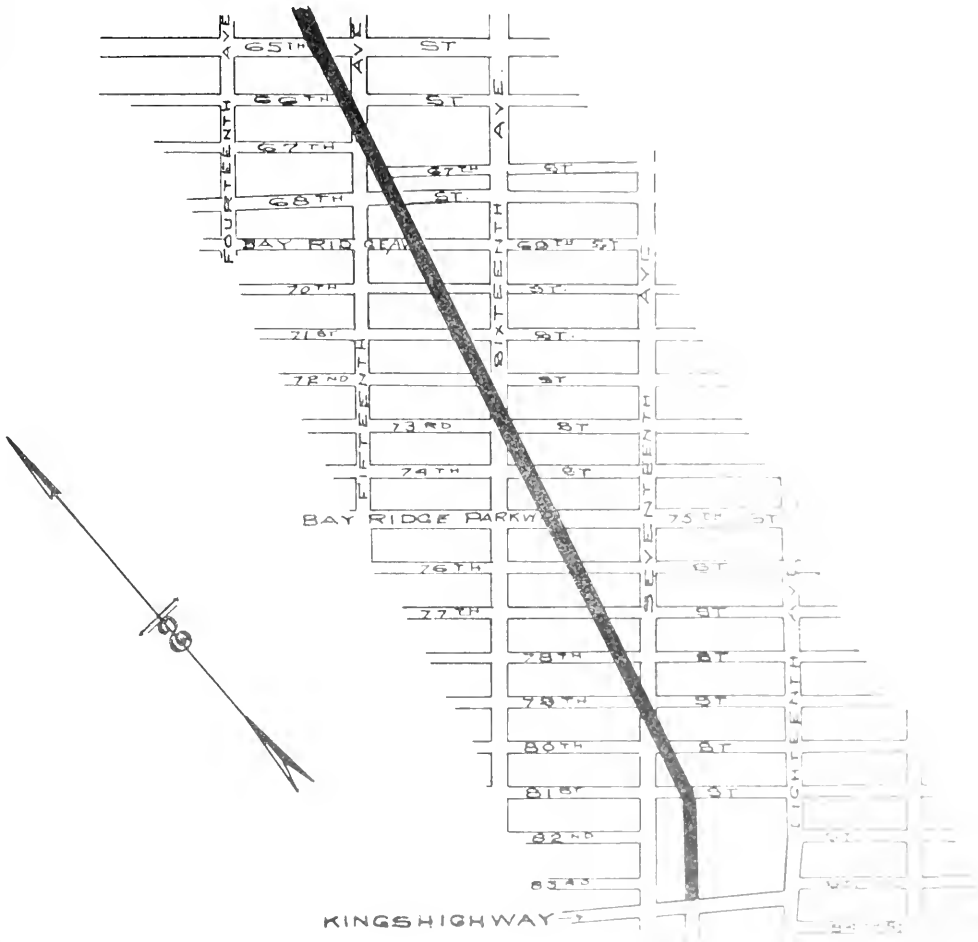
This petition was acted upon favorably at a meeting of the Highway Commissioners held in the house of John L. Van Pelt on February 3, 1852. The Commissioners determined that a highway be laid out in the said town of the width of sixty feet "on the application, consent and release of all claim for damages" of James L. Lefferts and several others, "through whose lands the said highway is to pass." Tunis G. Bergen made a survey of the road and in his description says that the road was to be laid out through "improved" lands. The minutes of the meeting then continue:

"The said Commissioners therefore order, determine and certify that a public highway shall be and the same is hereby laid out of the width of sixty feet as above described and surveyed, in pursuance of the application, written consent and release of all claims for damages hereinbefore referred to." This was signed by J. Remsen Bennett, John L. Van Pelt and John Cowenhoven, Commissioners.

The road, which is the subject of the foregoing, is identified by the experts of the Commissioner of Records in Kings County as the road that later became known as the Brooklyn, Greenwood and Bath Plank road.

It does not seem to be necessary to trace the career of the road in more recent years, and to record the various changes in the railroads which were operated upon it. In general, however, it may be said that the Brooklyn, Greenwood and Bath Plank Road Company obtained a consent of owners and of the Commissioners of Highways under date of April 25, 1852, consenting to the construction and use of a plank road. A survey was filed in the Register's office on July 30, 1852, by No. 452. On January 24, 1863, the Brooklyn, Bath and Coney Island Railroad Company secured consents of the owners along the line of the road covering the route of the Plank Road Company. This deed is recorded in Liber 588, at page 255. A more detailed account of the various changes in the ownership and operation of the railroads is contained in an opinion rendered by Corporation Counsel Rives.





BROOKLYN, GREENWOOD
& BATH PLANK ROAD

BROOKLYN, JAMAICA AND FLATBUSH TURNPIKE.

Length, 12.6 Miles. Intersects 222 Blocks.

This is the name commonly applied to a road that existed in common parts of the turnpikes became a business venture in Kings County. The road has a long and varied history that is enmeshed in a web of special acts, mergers, and the like, which has almost obscured its real identity.

The road was one of the first, if not the very first, that was used by the white men settled Brooklyn and the outlying settlements at Flatbush and Jamaica. In general terms, the road began at the East River, substantially where the present bridge is now, and followed the general line of Fulton street up to Flatbush, and thence up Flatbush to Atlantic. Near this point the road branched into two directions, one generally following the line of Flatbush avenue and leading to a settlement at Flatbush, the other continuing up Atlantic avenue, entering the present Fulton street and making many turns and deviations from the present line, terminating at Jamaica.

But long before white men settled in Kings County this path was used by the Indians. The headquarters of the Canarsie tribe was connected with another by a road, another that followed the line of the Hunterly road. This was the main road used by the Indians to reach East River.

Some time between 1643 and 1647 a settlement was made near the present Fulton Ferry. The location was determined upon beams of its proximity to the ferry to New Amsterdam, a fact which shows that the transportation problem was calling for solution even in those dreamy days. This settlement, which was more than a cluster of huts, was known as "The Ferry." Leading from the settlement, skirting the locality called by the Indians "Iptheanga," known to us as Flatbush, was a road leading toward Flatbush. This was known as the Ferry road.

When settlers began what might be termed the first agricultural experiment, they located a town in the heart of the maize fields, between W. 10th and W. 11th streets, facing the road to Flatbush. This settlement was the beginning of Flatbush. The locality is familiar now as the shopping district.

The Ferry road was the main artery of travel between Flatbush and Brooklyn and Flatbush during the Dutch occupation. It was referred to by many names, by different names, sometimes as the "Wagon road," sometimes as the "Flatbush road," sometimes as the "Brooklyn Church."

As early as 1634 portions of the road were in existence. The fact that there is abundant evidence to prove not only that this was a road, but that it was a road before the Dutch exercised authority in the colony, is discussed in an interesting opinion of the Court of the Admiralty in 1700.

37 N. Y., 251), and also in *Mott vs. Clayton* (9 App. Div., 181), in which cases it was decided that the road was Dutch and that the City of Brooklyn in granting a release of its interest in the road passed a good title to the ground.

If it were necessary to establish only the fact that this was a Dutch road the report might end here, but another question having intimate relation to the rights of the City must be considered. The road afterward became a turnpike, operated by a private corporation, and this circumstance, connected as it is with a maze of mergers and other devices of the law, makes a further examination of the history quite necessary.

After the British took possession of the Dutch holdings the name of the road was changed to Kings highway, although the names of old roads varied with the caprice of local favor, and this was no exception to the rule. It was also known as the Queens road, Gravesend path, etc., according to locality or fancy.

The Kings highway (which will be treated in another report) was practically the same as the Flatbush and Jamaica turnpike up to certain points, beyond which the turnpike did not extend. The end of the turnpike on the Flatbush branch was at a point corresponding with the present intersection of Flatbush and Church avenues.

The popularity of the turnpike in this State dates from 1807. In that year a general act relative to turnpike companies was passed by the Legislature, and turnpike corporations sprang into general favor. This act provided, among other things, that when the income was equal to the expense incurred by the company, the State might dissolve the corporation, "and thereupon the right, interest and property of the said corporation shall be vested in the people of this State and be and remain at their disposal."

Following the incorporation, numerous statutes were enacted relative to the company. A brief reference to such acts follows though it is not known that the list embraces all the enactments relating to the turnpike:

Date, March 17; Laws of 1801, Chapter 74.

Incorporated the Brooklyn, Jamaica and Flatbush Turnpike Company. Named John D. Dimars and others to make a good and sufficient turnpike road to begin on the highway at or near the old and new ferry stairs in the township of Brooklyn, in Kings County, running from thence through the village of Bedford to the dwelling house of Charles McNeil in the township of Jamaica, in Queens County; and also to make a further good and sufficient turnpike road, to begin on the highway in front of the church in the village of Flatbush and running from thence toward Brooklyn ferry until it meets the said road leading to Jamaica, near the dwelling of the late John Cowenhoven.

Laws of 1818, Chapter 50.

Authorized an increase of toll on "expensive pleasure wagons." The increase applied also to the Jericho turnpike.

Date, April 18; Laws of 1823, Chapter 130.

Passed April 18, amends original act of March 17, 1820. Authorized company to collect tolls, although no toll gate had been erected, "not less than 1 $\frac{1}{2}$ miles from the Episcopal church in Jamaica." Also authorized company to erect more toll gates.

Date, April 3; Laws of 1827, Chapter 155.

Incorporate Brooklyn as a village. Also set forth that road from the village line at Red Hook lane to the ferry was abandoned by the company. Brooklyn assumed all the expense of maintaining the road, but the company was authorized to continue collecting toll.

Date, March 3; Laws of 1830, Chapter 63.

Directors given the privilege of removing their easterly gate near Jamaica and "to place same on their road, between the house of Gideon Tooker and a point 80 rods easterly of the three-mile stake, near the Village of Bedford," when so removed to be subject to same restrictions and privileges as before.

Laws of 1832, Chapter 256.

Incorporated the Brooklyn and Jamaica Railroad Company. Upon payment the company immediately became entitled "to use" lands. Section 27 of the act directed the purchase of the stock of the Brooklyn, Jamaica and Flatbush Turnpike Company at \$26 per share in cash or \$23 per share in stock of the new company. Section 30 declared that at the end of ten years the State might purchase the property by paying cost of construction, maintenance, etc., plus 14 per cent. per annum.

The Turnpike Company conveyed to the Brooklyn and Jamaica Railroad Company on August 2, 1833 (Liber 53, page 271), and continued under such ownership until 1851.

Date, April 23; Laws of 1835, Chapter 132.

Authorized appointment of Commissioners to lay out "streets, avenues and squares in the City of Brooklyn." To open or close streets, highways, etc., in Sixth, Seventh, Eighth and Ninth Wards. Confirmed by chapter 41 Laws of 1839.

Date, May 6; Laws of 1837, Chapter 377.

Authorized Brooklyn and Jamaica Railroad Company to "purchase the portion of the Brooklyn and Jamaica turnpike road, between Piermont's Gate and the heirs of A. Selover."

Date, April 18; Laws of 1838, Chapter 242.

"Whenever any turnpike corporation shall become dissolved or discontinued, its road shall become a public highway and be subject to the laws regulating highways."

Date, April 26; Laws of 1839, Chapter 256.

Authorized a straightening of the road between the land of the heirs of A. Selover and the intersection of the Cripple Bush road. Provided further that the company might sell that portion of the old road when new road was opened and grantees of purchasers should become owners.

Date, May 13; Laws of 1846, Chapter 310.

Authorized Brooklyn and Jamaica Railroad Company to cede parts of Brooklyn and Jamaica turnpike and Brooklyn and Flatbush turnpike road belonging to said company "as lies within the limits of the City of Brooklyn, to Mayor and Common Council of City of Brooklyn, on terms and conditions to be agreed upon. And such cessions shall vest in the said Mayor and Common Council of the City of Brooklyn all the right, title and interest of the said company in the parts of the roads so ceded and in the bed of said parts of said roads, and whenever any part or parts of said road shall be so ceded as aforesaid, the same shall thenceforth cease to be considered a road, and shall belong absolutely to the purchasers or grantees thereof free from any liability to be used as a road."

Provided further that company should continue to collect same toll after cession "whether said parts shall be kept open or closed, unless a lower rate of tolls shall be agreed upon," etc., or unless company waived the tolls.

After cession company was freed of liability for repair, etc., Brooklyn assumed it. Ceded parts might be closed by order of Mayor and Common Council, "if other streets or avenues convenient to and communicating with the other parts of said turnpike roads shall have been opened and regulated, and such proceedings shall in other respects be had as are provided by law for closing the streets or avenues in said city."

Year 1848, Chapter 373.

Brooklyn and Jamaica Railroad Company authorized to sell property and franchises to Jamaica and Brooklyn Plank Road Company, which was incorporated under the general laws about 1850.

The Brooklyn and Jamaica Railroad Company and Brooklyn, Jamaica and Flatbush Turnpike Company conveyed to Jamaica and Brooklyn Plank Road Company all interest, etc. (Liber 250, page 6.) This ownership continued until about 1879.

Date, April 25; Year 1864, Chapter 383.

Authorized Jamaica and Brooklyn Plank Road Company to change location of or erect any toll gate, house or other building authorized anywhere on the road, when ordered to by Board of Directors.

Date, May 7; Year, 1863, Chapter 507.

William Durland, Martin I. Duryea and others created a body corporate known as "East New York and Jamaica Railroad Company." Possessed general powers of a

turnpike company. Authorized to lay rails for "the passage of railroad cars to be drawn by horses on each side of the road now known as the Jamaica and Brooklyn plank road, from the terminus of the Fulton avenue road at the City line of the City of Brooklyn, Kings County, to any part of the Village of Jamaica, in Queens County." Corporation might agree for purchase of road, etc., "and after the same shall have been purchased or obtained, the provisions of this act shall apply to such plank road or right thus acquired. Empowered to collect tolls "in case they shall purchase the franchise of the Brooklyn and Jamaica Turnpike and Plank Road Company." In case unable to agree with Jamaica and Brooklyn Plank Road Company, authorized to purchase real estate over and along Liberty avenue in accordance with act of April 2, 1850. Provisions of "An act in relation to plank roads and turnpike roads," March 28, 1854, applied where not in conflict.

All rights, title and franchises, etc., of this road were acquired by the Jamaica, Woodhaven and Brooklyn Railroad Company by and from Edward M. Osborn and wife, August 25, 1872 (Liber Deeds, 1920, p. 147).

Property acquired by Osborn through a conveyance by John H. Sutpin, January 16, 1872 (Liber 365, page 9, County Clerk, Queens), and (Liber 1031, page 197, Register, Kings) given in pursuance of a judgment of foreclosure of a mortgage on the property of the East New York and Jamaica Railroad Company.

The Jamaica, Woodhaven and Brooklyn Railroad, by virtue of this conveyance, claimed the right to construct, maintain and operate a railroad on the property.

Date, May 2, 1864; Chapter 520.

Authorized company to collect toll from funeral processions same as of others, except that the hearse and four carriages should pass free.

Date, April 24, 1869; Chapter 310.

Authorize closing and sale of road to the City of Brooklyn. Brooklyn authorized to sell and convey the land. Road to be paid for through annual tax levy.

Date, April 21, 1871; Chapter 650.

Amended act of 1869, authorized company to sell to abutting owners or in front of premises.

Date, April 3, 1874; Chapter 119.

Authorize the Jamaica and Brooklyn Plank Road Company to increase its capital stock to the amount "they have actually expended in construction of the plank road." Required to file a certificate setting forth amount of increase with the County Clerk of Queens. Required to first obtain consent of stockholders represented in company.

Date, 1870; Chapter 150.

Authorized consolidation of the Jamaica, Woodhaven and Brooklyn Railroad Company with the Jamaica and Brooklyn Plank Road Company.

Jamaica and Brooklyn Road Company." To enjoy all the privileges and exemptions of the two companies "until the expiration of the charter of the said railroad company."

Date, May 2, 1893; Chapter 527.

Amends chapter 452, Laws of 1892. Permits appointment of Commissioners to condemn if the company refuses to sell.

Date, May 8, 1895; Chapter 564.

Repeals chapter 452, Laws of 1892, and chapter 527, Laws of 1893, and declares all proceedings under said acts to be void. This act authorized the acquisition of the road by condemnation, expense and cost to be paid from Jamaica Plank road bonds and then assessed.

Chapter 356; Year, 1897.

Amends chapter 564, Laws of 1895, as to amount of money, etc. Nothing about property going to adjacent owners.

Various portions of the old turnpike were sold to the City of Brooklyn. The data related to such sales has been gathered from various quarters, and the following schedule is not to be understood as indicating that these were the only purchases made. The records of the Register's office in Kings County show the following conveyances:

General Provisions Conveying to the City of Brooklyn.

Date, October 31, 1849; Liber 203, Page 422.

Conveys all that part of Brooklyn and Jamaica turnpike between the westerly line of Red Hook lane and the intersection of Fulton and Flatbush avenues.

Consideration..... \$1,200 00

Date, November 15, 1852; Liber 301, Page 141.

Confirming above deed.

Date, March 9, 1852; Liber 272, Page 341.

Conveys the road from Grand avenue to the Gowanus road (about the present Fifth avenue).

Consideration..... \$5,000 00

Date, September 29, 1852; Liber 308, Page 75.

Cedes all property, etc., of the Turnpike Company between a point 255 feet easterly from the southeasterly corner of Fulton avenue and New York avenue and the easterly side of Perry avenue (near the present Bedford avenue) and between the southerly side of Fulton avenue and a line drawn equi-distant from Fulton avenue and Herkimer street. Also that part between Nostrand and Bedford avenues north of the north line

of Fulton street. Also all that part between the east side of New York avenue and Perry avenue south of a line drawn equi-distant from Fulton avenue and Horlimer street.

Consideration..... \$2,500.00

Classon avenue to Gowanus road, 50 feet adjoining southerly side of Atlantic avenue. Agreement to convey recorded in Liber 395, page 245.

Date, August 20, 1855; Liber 412, Page 283.

It will be recalled that the act incorporating Brooklyn as a village, chapter 173, Laws of 1827, noted above, declared that the turnpike company abandoned it from the ferry to the village line at Red Hook lane. This, added to the conveyances so far discovered, would indicate that there is very small doubt about the turnpike company's ownership of the old turnpike from the ferry to New York avenue, except of course small portions as have been released by proper authority. That portion of the turnpike between New York avenue and the line of the old Twenty-sixth Ward presents another question. Between these points there is a shadow of uncertainty. Part of the road was Dutch and part came into existence at a later date. It would therefore be well to refrain from further discussion of this section until after a special investigation of conditions relative thereto. There may be direct conveyances of this property that have not yet been located, but the Brooklyn, Queens County and Suburban Railroad has executed releases for portions of this section and the question as to whether they conveyed a good title has been raised. That company charged substantial sums for the releases, in some cases at least. Between these points, the road had two branches. One was far more circuitous and very much older than the other. It was the more direct route that the turnpike followed. It has been suggested that this section was taken over by the turnpike company for its own convenience. If this were a fact it would seem in the light of decisions of the Court of Appeals, that when the turnpike company merged with a railroad, the lands held by it in a corporate capacity, were not the owner of the fee. Upon its abandonment as a turnpike, the land would revert to the fee owners automatically, so the fact that abutting owners paid for releases would not necessarily indicate fee ownership, but would seem to indicate that the turnpike company abandoned the turnpike. The Court of Appeals in *Mahon vs. New York and Hudson River Railroad Company* (21 N. Y., 658) appears to have decided that the Court in that case said :

"Although the general act relating to turnpike companies, chapter 173, § 17, declares when the president and directors pay taxes on the lands owned by them assessed and awarded by the appraisers in their inquisition, the title to the lands belongs to them and their successors and assigns forever, the fact that the lands were assessed in their inquisition; yet it has always been held that the title to the lands when the corporation vests in the company the title to the land is not thereby transferred to it for the purposes of the road and when the road is abandoned the title reverts to the

the original owners. The company only acquired such an estate in the land taken by it as was necessary to fulfill the end and interest of the corporation and could hold it to no other use, intent or purpose. Having ceased to occupy the land in question for the purpose of a turnpike road, the Mohawk Turnpike Company in transferring it, in effect abandoned it, and although they were authorized by the Legislature to transfer it to the Utica and Schenectady Railroad Company, this could not constitutionally deprive the original owners of the land of their right of reversion without compensation."

In view of the acts executed under authority of chapter 132 of the Laws of 1835, there does not appear to be much room for doubt that all the lands used by the turnpike have reverted.

It was provided among old acts that "when Fulton avenue shall be opened and fit for travel, from Bedford avenue to the City line," the turnpike was to be deemed discontinued from Perry avenue (about Bedford avenue) to the City line, reserving the rights of the turnpike company.

When Fulton avenue shall be opened and fit for travel from Red Hook lane to Bedford avenue (reserving the rights of the turnpike company) turnpike closed from Red Hook lane to Perry avenue.

When "Flatbush avenue shall be opened from Atlantic street to the City line, reserving to the Flatbush Turnpike Company all their legal rights, turnpike closed from Jamaica Turnpike to City line."

What those "legal rights" were, in view of the decision of the Court of Appeals, is a legal question.

I desire again to call especial attention to that portion of the road between New York avenue and the boundary of the old Twenty-sixth Ward. If this section was laid out over an existing road, the City may hold a considerable interest; if, on the other hand, it was laid out on private property, it would seem that this was a transaction between the company and private owners in which the City has no substantial interest. If this be the case and the owners have seen fit to buy releases from the company, a nominal sum would doubtless be sufficient to compensate the City in such a situation.

This point should be distinctly understood, because without explanation, if the City were to charge a substantial sum for a release on one portion of the road and release for a nominal sum on the same road a few blocks distant, it would at once open the door for charges of favoritism and unfair dealing, and would further open alluring fields for the exercise of that genius peculiar to critics who are usually more active than accurate.

The City of Brooklyn purchased all that portion of the turnpike lying within the lines of the Twenty-sixth Ward and the people of the Greater City are paying 3½

per cent. interest on bonds to the amount of \$105,000, which were issued as a result of that transaction. The bonds will mature in 1917. It is not necessary to go into this matter at length, because the present highway in that section conforms with the line of the old turnpike.

To sum up in conclusion:

The bed of the Brooklyn, Flatbush and Jamaica Turnpike was originally an Indian path; it later became a Dutch road; then an English road, and later a turnpike road.

As new streets were opened, portions of the turnpike were abandoned, and in view of Court of Appeals decision, reverted to the original owners. Where the turnpike followed the old road the owner was the City.

The turnpike followed an existing road for its entire length, save possibly that portion between New York avenue and the old Twenty-sixth Ward.

In this section there is some doubt, a point that should be emphasized.

From the Ferry to Red Hook lane, the road was abandoned to the Village of Brooklyn. From Red Hook lane to New York avenue, it was conveyed to the City of Brooklyn by deeds.

This report does not assume to complete or to touch upon all the features that have presented themselves in the course of a long search among statutes, histories and archives of local lore. I am especially indebted for much valuable information to the office of the Commissioner of Records in Kings County, and the Topographical Bureau of the Borough President's office in that Borough.

BROOKLYN AND JAMAICA TURNPIKE.

Supplemental Report.

A few weeks ago I submitted to you a general report dealing with the history of the Brooklyn, Flatbush and Jamaica turnpike. In that report special attention was called to conditions prevailing between New York avenue and the boundary line of the old Twenty-sixth Ward, and it was therein suggested that a further study of this section be made. I now have the honor to present the results of a later examination.

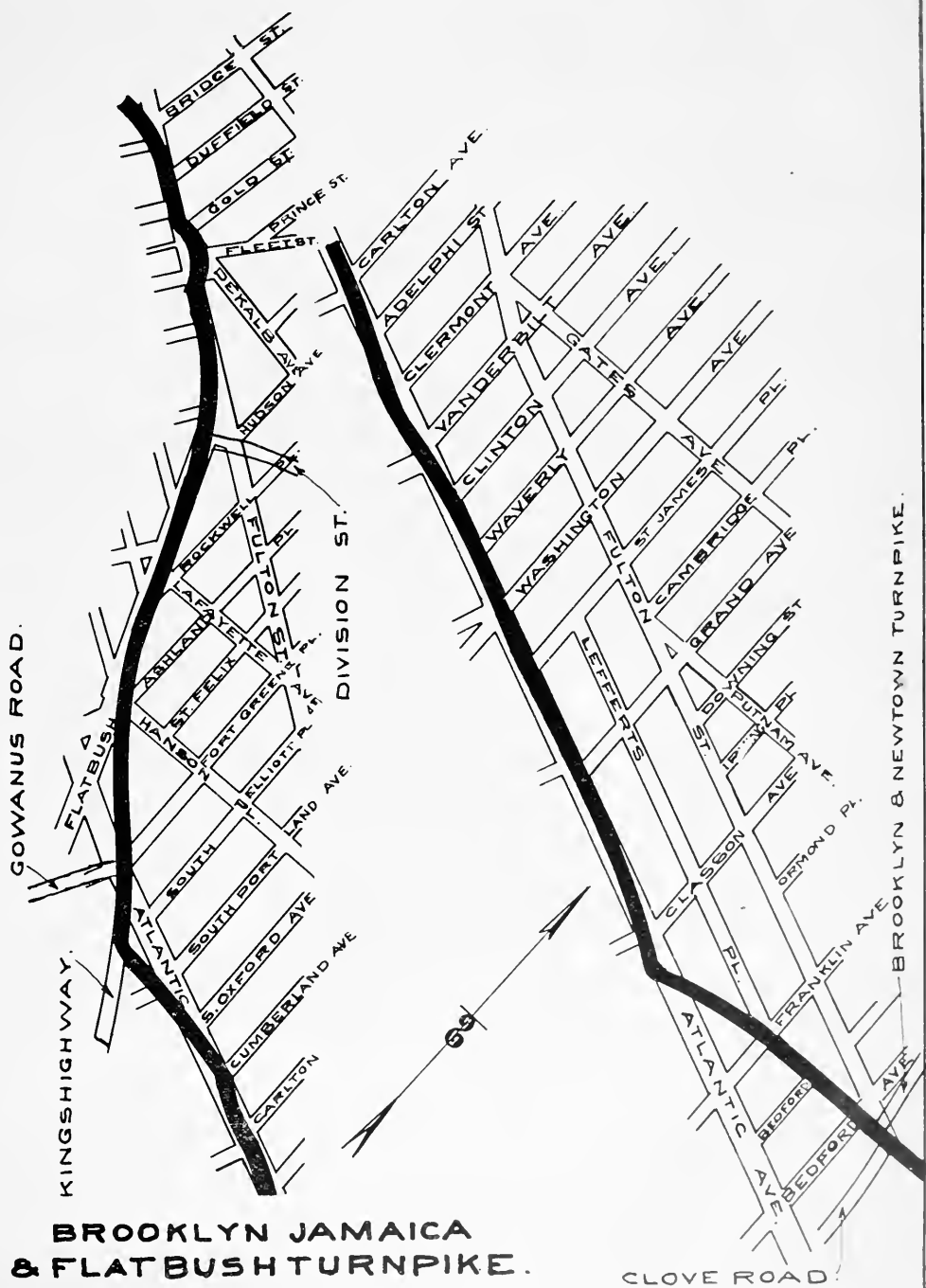
I have consulted with the experts of the Commissioner of Records office in Kings County, who have specially examined and studied old maps, deeds and other records relating to the matter. The conclusions are that from New York avenue to Sumner avenue, the road was in existence prior to 1664, these boundaries being stated generally. At Sumner avenue a complication arises. The original road continued up to about Reid avenue, where an angular deviation occurred, the road veering in a southerly direction (along Reid avenue) and joining the Hunterly road a few blocks below. When the turnpike days arrived, it was found that a considerable distance could be saved by a direct road, eliminating the angular change, and such a road was made accordingly. This portion was therefore of comparatively recent date.

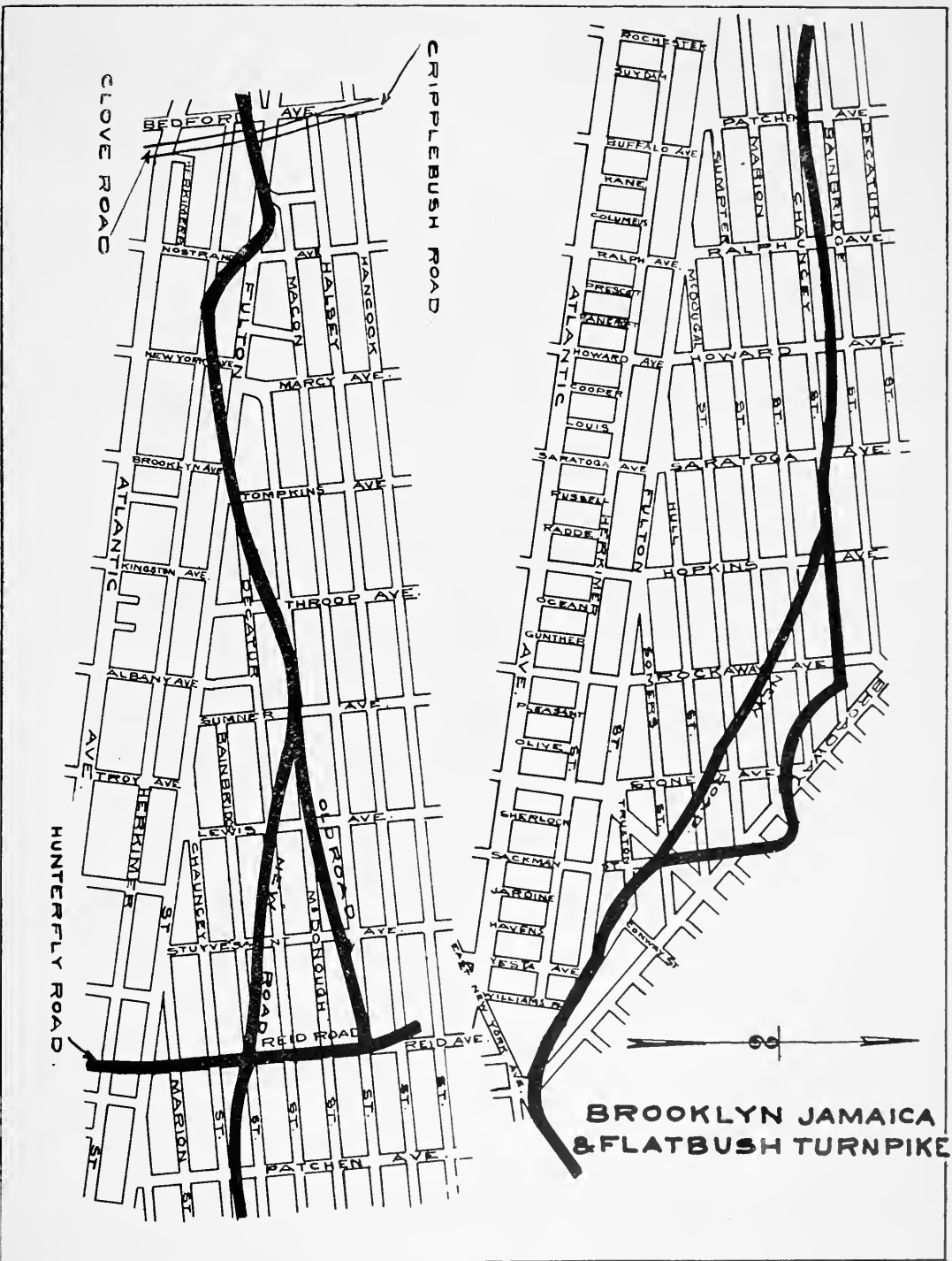
Between Reid and Patchen avenues still another complication arises. Some old maps show a slight curve in this section; others a straight line; and the question is whether this indicates a deviation from the original lines or not. By careful measurements the facts indicate that if a new road was laid out at this point it doubtless included a portion of the original Dutch road, and so here is presented rather a novel situation.

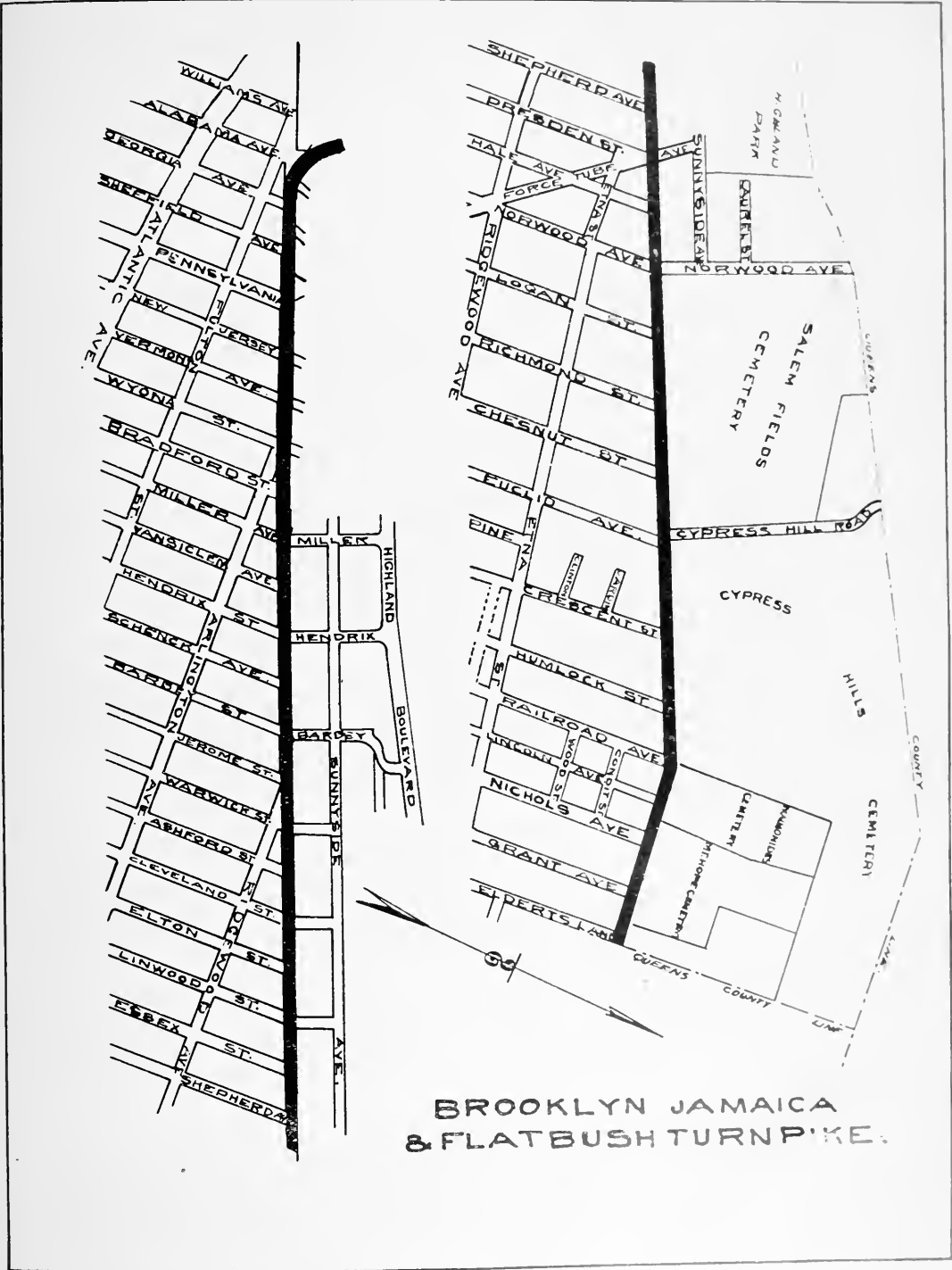
From Patchen avenue to a point just below Hopkinson avenue the turnpike followed the old Dutch road, but at that point there was another cut-off not unlike the one before described. The old road followed a winding course, turning south again and crossing the Eastern Parkway Extension. The later road was the string to this bow. At intersecting points, conditions similar to those already referred to may be found, but no specific instance has yet appeared in this section.

Respectfully submitted for approval.









BROOKLYN JAMAICA
& FLATBUSH TURNPIKE.

OLD BUSHWICK ROAD.

Length, 1 Mile. Intersects 33 Blocks.

In general it may be stated that this road extended from the old settlement at Bushwick to the Jamaica road at a point which corresponds substantially with what is now known as the Cemetery of the Evergreen. For a considerable portion of the distance it followed a line that corresponds closely with Bushwick boulevard. Indeed, much of the old road lies within the lines of this boulevard and some strips of the road which were left when the present street was laid were made the subject of Legislative enactments. The particulars are discussed below.

This is an old Dutch road, according to data obtained from the office of the Commissioner of Records of Kings County. It was known, as early as 1640, as "Highway running from the Kills," and in 1661 as "het Kevis padt," meaning "The Cross Road," because of the fact that it crossed some of the other roads of old Bushwick. It was a convenient avenue of travel from Bushwick to the main highway.

The Legislature, by various acts, closed portions of the old Bushwick road and specifically authorized adjoining owners to fence in and use such lands as were not required for Bushwick boulevard and other streets. Following is a list of such acts, but this list may be incomplete. The Law Department doubtless has more detailed information on the point:

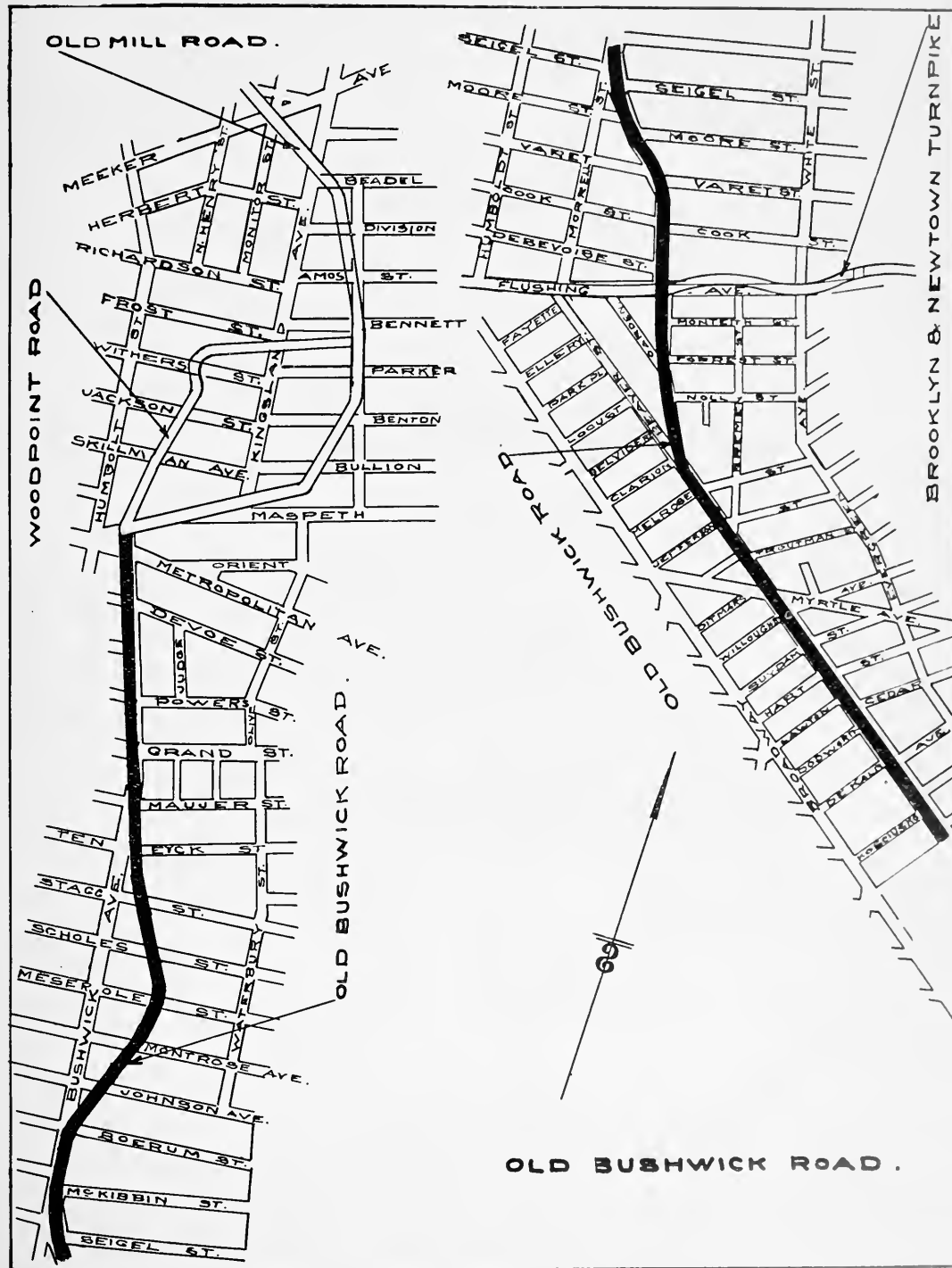
Laws of 1868, chapter 801. Provisions: Closes Bushwick road, between Grand street and Marshal (now Seigel) street and authorizes adjoining owners to fence in, use, etc., such lands as are not required for Bushwick road and other streets.

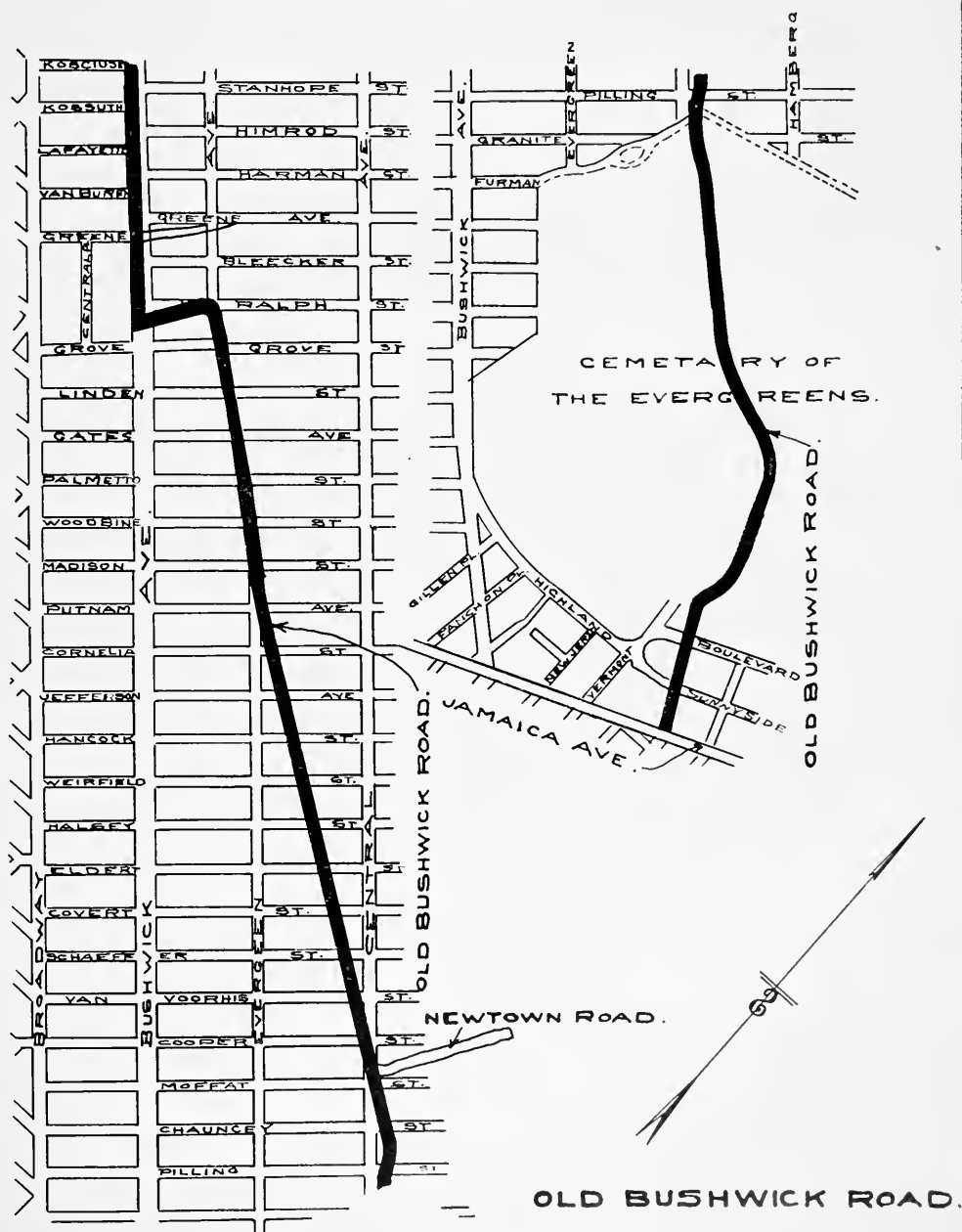
Laws of 1869, chapter 439. Provisions: Closes Bushwick road, between Remsen (now Maujer) and Meserole streets and between Boerum and McKibben streets. Adjoining owners authorized to fence in, etc.

Laws of 1873, chapter 354. Provisions: Closes all that part of Bushwick road southeast of Ivy (now Madison) street and northwest of Virgilius, late John street (now Jefferson avenue), except that part laid out as Evergreen avenue.

Laws of 1890, chapter 272. Provisions: Common Council authorized to discontinue and close all that portion of Bushwick road as laid down by commissioners on the map of Bushwick, southeast of Virgilius, late John street (now Jefferson avenue), to Evergreen Cemetery, adjoining owners authorized to occupy.

The sum of these acts leaves certain sections of the road uncovered, so it seems that there are either additional acts, or that some owners enjoyed privileges denied others. The point is important and in order that the apparent difference in the legal status of various portions of the road, I would respectfully recommend that all applications for releases along this line be referred to the Corporation Council.





CHURCH LANE OR EAST BROADWAY.

Length, 3.8 Miles. Intersects 142 Blocks.

Church lane branched east and west from Midwout (Flatbush), and was one of the main arteries of travel in the very early times.

That portion lying east of the present Flatbush avenue was the road through which the cattle and hay wagons of the Midwout settlers were driven to the salt marshes bordering Jamaica Bay. From this circumstance the lane was known at one time as Koe (Cow) street. A portion of the salt meadows lying just above what was known as Fresh Creek was patented by Governor Stuyvesant to Midwout in 1656 and was used in common by the inhabitants of the settlement. Salt hay was a product of great importance, for it furnished a natural fodder for cattle that the untamed uplands would not yield without the expenditure of considerable time and labor in cultivating the ground. It was very largely for this reason that marsh lands were eagerly sought by all the pioneers in the section.

Church lane furnished an almost direct road from Midwout to the head of Fresh Creek and continued along the road that skirted the marshes.

By data obtained from reliable sources it appears that Church lane was referred to as "The Road" January 29, 1658, and as "The Highway" on November 3, 1659, in official documents.

Both of the dates mentioned were included in the period of the Dutch sovereignty here, so there does not appear to be any doubt about the fact that Church lane or avenue, sometimes known as East Broadway, was a Dutch road and under the law of Holland was owned absolutely by the government of which the present City of New York is successor.

That portion of the road lying west of the present Flatbush avenue was also Dutch and what has been said of the other portion may be applied to this with such alterations as the geographical features of the country suggest.

On March 15, 1860, the Board of Public Improvements authorized the opening of Church avenue, from Flatbush avenue to Brooklyn avenue.

On December 19, 1902, there was a reduction of assessments, the City assuming 55 per cent. of the cost of the proceeding. On April 28, 1903, the report of the Commissioners was confirmed.

In this proceeding the lines of Church avenue were straightened and portions of the old road, which followed an irregular course, were left between the land of private owners and the lines of the new street. Several applications for releases of the City's interest in such strips are now pending.

Numerous other references showing the road to be very ancient might be cited, but those already adverted to seem to render unnecessary any further discussion of the point.



CLOVE ROAD.

Length, 1.9 Miles. Intersects 33 Blocks.

This road connected the settlement of Bedford with that at Flatbush in the Dutch days. Flatbush was in the early Dutch period the county seat and place of prime importance.

The settlement of Bedford grew out of the difficulties which the settlers of Brooklyn and Wallabout experienced in hauling hay from the salt meadows along the shores of Jamaica Bay. Bedford was a more convenient starting point because it materially shortened the haul.

In 1662 Governor Stuyvesant in response to a petition made to him granted to each of certain petitioners twenty morgens of land at Bedford. This represented about forty acres apiece. The home lots were located at what became known as the Village of Bedford, at the intersection of three roads, the main road (later known as Jamaica Turnpike), the Cripplebush road and the Clove road. The plantations of which the home lots were a part, extended from the Clove to the Hunterfly road. This situation considered with certain other circumstances leads to the belief that the Clove road was in existence for some time before Bedford was settled as a community.

There was a combination known as the five Dutch towns, composed of Brooklyn, Flatbush, Flatlands, New Utrecht and Bushwick. A register commissioned by the Director General travelled from town to town and took proof of wills, marriage settlements and other things, and in those primitive days chose the road that offered the fewest obstacles. From Bushwick to Flatbush the Bushwick and Cripplebush roads would carry the traveller to the main road (Fulton street of to-day) and then his most direct course for Flatbush was through the Clove road. Indeed, it would have involved considerable time and labor to have sought his destination by any other route.

Even the name of the road suggests that it extended a mute invitation to go that way. Clove means cleft and its application in this relation is that it indicated the road through the cleft in the hills.

On February 26, 1664, Governor General Stuyvesant issued a patent to Cornelius Van Ruyven and one of the boundaries of the land was "The Path." This land has been located by experts of the Commissioner of Records in Kings County and "The Path" identified as the road that was known more recently as the Clove road.

On February 18, 1666, Thomas Lambertse secured a patent in which "The Carteway," "Pathway" or "Highway" was made a boundary. This has likewise been identified as the Clove road. While it may be argued that 1666 was two years after the surrender, it should also be borne in mind that Land is now usually described as

bounded by a highway unless that highway is generally known and a highway or anything else does not become generally known until it has been in general use for some considerable period.

A further evidence that the road was then generally known and well travelled is furnished by what is perhaps the first liquor license ever issued to the Bedford section. Thomas Lambertse, who secured the patent referred to in the foregoing, desired to establish an "Ordinary" for the entertainment of man and beast, so he made application to the Governor, and on December 17, 1668, the following license was issued:

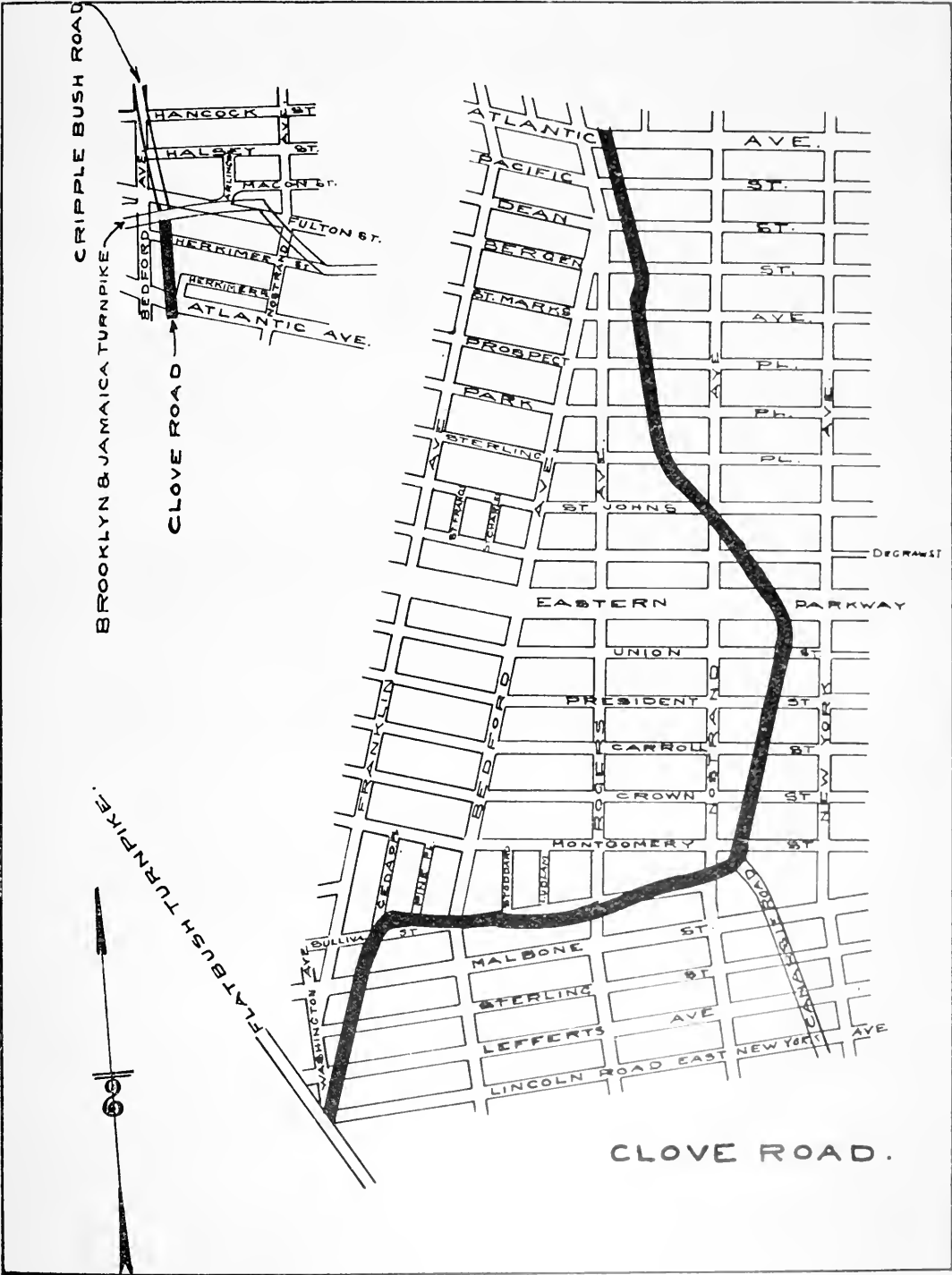
"License granted to Thomas Lamberts, of Bedford, to sell beer, wine and other liquors.

"Whereas, Thomas Lamberts, of Bedford, within the jurisdiction of Brooklyn, in the West Riding of Yorkshire, upon Long Island; is willing to undertake the keeping of an Ordinary for the accommodation of travellers and other persons passing that way, with diet and lodging and horse meals. I do hereby give him license to sell beer, wine or any other strong liquors for their relief. And for his further encouragement therein do think fit to order that no person living in said Village of Bedford have privilege to do so but himself. This license to continue for one year after the date hereof and no longer. Given under my hand at Fort James in New York, this 17th day of December, 1668."

FRANCIS LOVELACE.

The worthy Lamberts probably did not engage in business for the purpose of losing wampum, so his selection of a site at Bedford for the establishment of a road house indicated that there was considerable traffic passing through the settlement. As Flatbush was the principal town and centre of activity, the road leading thereto was likely to be a popular channel of travel and a road house situated at the junction where this important highway met others branching in various directions, was likely to prove a source of comfort to its patrons and profit to its promoter.

Other references to the road bearing date of very early times taken with the foregoing, leave no reasonable doubt that the Clove was a Dutch road. Portions of this old road south of Eastern Parkway still trace their way through open fields.



DE BRUYNS LANE.

Length, 7-10 of a Mile. Intersects 12 Blocks.

De Bruyns lane is a road that runs from the Kings Highway to Gravesend Bay. It is east of Bennetts lane, which has been treated in another report.

This lane is one of the earliest that existed in Kings County, and, like many other roads, was first probably an Indian trail leading to the water. The lane takes its name from one Francis Brown, known earlier as De Bruyn, whose name is impressed on the history of that locality because of a certain famous law suit over the ownership of a strip of meadow land claimed by both De Bruyn's successors and the town of Gravesend. An action to determine the respective rights was brought in the Supreme Court at Flatbush in 1789. Aaron Burr appeared as counsel for the town of Gravesend and secured a decision in favor of the town. For this service and all expenses, he received a fee of 35 pounds, which does not seem excessive when compared with some modern retainers.

Long before De Bruyn appeared upon the scene the lane was in existence. It was the dividing line between a large tract of land that was patented in 1643 to Anthony Jansen and a series of nine lots known as "The Plantations," some of which were laid out as early as 1657. This tract of land and the plantation lots extended from the Kings Highway to the shore of Gravesend Bay, and the lane was the only means of reaching the interior plantation lots from the front.

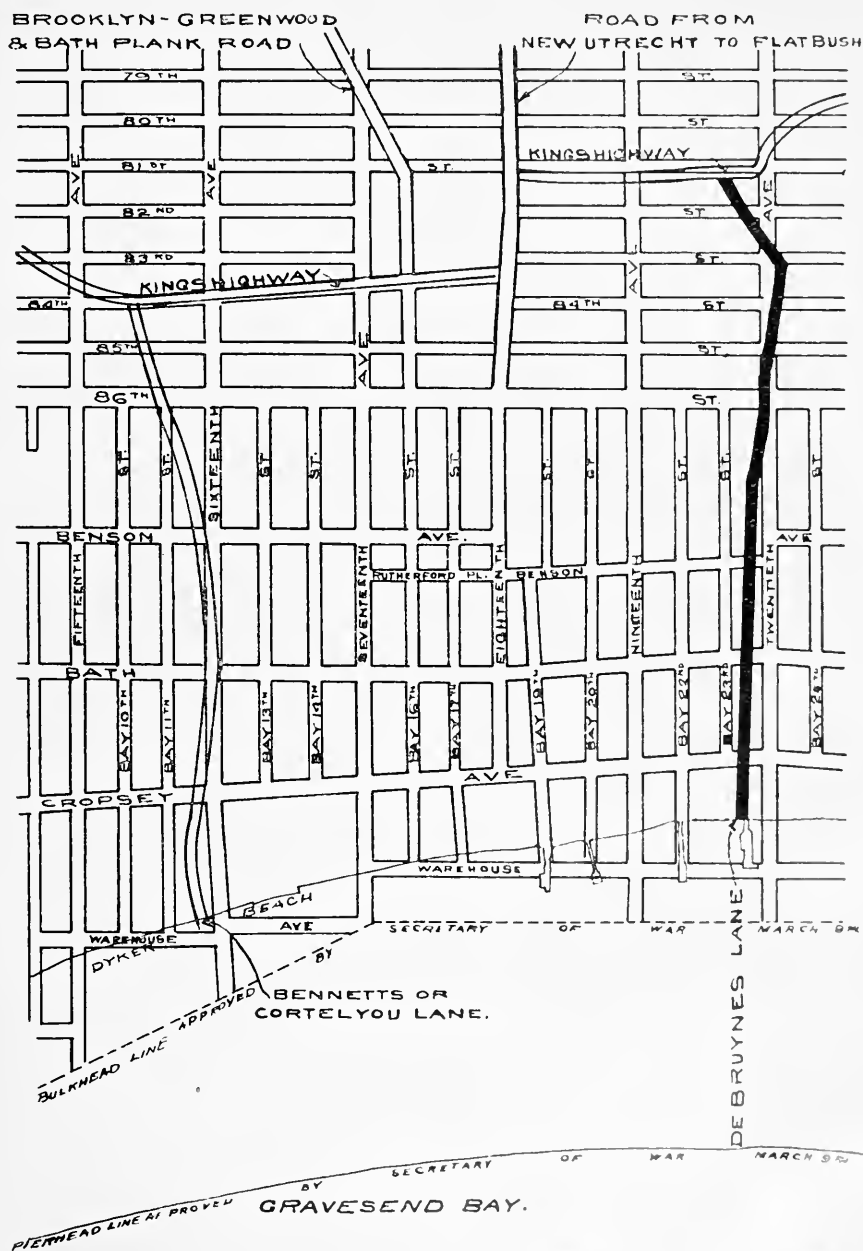
As the settlement of New Utrecht grew, the lane became an important factor in the life of the community. In those days there was excellent fishing in Gravesend Bay, and shell fish of many kinds were abundant. Dankers and Shuyter, who traveled through the Kings County section in 1679, and kept a journal of their expedition, state that in the Gowanus district the oysters were particularly plentiful and were very frequently about one foot long.

Fishing was not the only privilege of value commonly enjoyed by the settlers. It was also a common privilege to rake the sedge grass that was washed on the shore, and this was a source of profit to many. The avenue through which they sought these fields was either Bennetts or De Bruyns lane, and what may be said of one may also, in general, be said of the other, but Bennetts lane has been treated in another report.

Large fields of salt meadow land skirted the bay in some places and settlers of the surrounding towns were in the habit of driving their cattle through the Kings Highway and down either Bennetts or De Bruyns lanes to the salt hay fields, all of which is cited to show that the lane dates from the days of the Dutch occupation here. Many transfers of the plantation properties and that tract across the road from them, might be scheduled bearing dates prior to 1664, when the English nominally assumed control.

There is no doubt whatever that De Bruyns lane is a Dutch road. As such, according to legal authority, the fee of the roadbed is in the City.

Portions of the land have been closed by resolutions, but the resolutions did not clothe the abutting property owners with any right to fence in the lane without first getting a proper release from the City authorities. The lane was closed from Eighty-sixth street to Kings Highway by resolution July 21, 1891; from Eighty-sixth street to Benson avenue, December 23, 1897; from Benson avenue to Cropsey avenue—resolution of the Board of Estimate and Apportionment—June 14, 1907, printed 1492 of the minutes.



DE BRUYNES LANE.

GOWANUS ROAD.

Length, 2.8 Miles. Intersects 65 Blocks.

Brooklyn was born at Gowanus; that is to say, of the territory which was later included within the boundaries of the City of Brooklyn, the first purchases by white men were made at Gowanus.

In 1636 William Adriaense Bennet and Jacques Bentyn purchased 930 acres of land lying along Gowanus Cove. This is the first purchase of land in that locality of which any authentic record remains.

On November 28, 1639, Thomas Bescher secured a patent to a piece of land adjoining Bennet's land. Frederick Lubbertsen on May 26, 1640, secured a patent to a considerable stretch of what is now known as the South Brooklyn water-front.

These lands were settled and wherever there is a settlement there is a road. Among the earliest settlements within the limits of Brooklyn were the Ferry and the "Waal-bogt" or Wallabout. The ferry was near the site of Fulton Ferry, on the road that later developed into Fulton street. From the road the Gowanus road branched off and led toward the settlements that dotted the shore toward the Narrows.

On April 5, 1642, Director General William Kieft issued the following patent to Cornelis Lambertsen Cool:

"We, William Kieft, Director General and Council, etc., herewith declare and testify that to-day, dated underwritten, we have granted to Cornelis Lambertsen Cool a certain piece of land situate upon Long Island called Gouwanes, reaching in width from the wagon road running through said land, and Jan Patersen's land lying along the river to a certain copse where William Adriaensen's land is next: Whereas this land has formerly been occupied by Jan van Rotterdam and Thomas Beets, it is expressly stipulated that the paths running over this piece of land shall remain open; in addition to this piece a part of the meadow situate near the valley of Anthony Jansen from salee, containing 28 morgens, is granted to Cornelis Lambertsen; all with the express condition and stipulation, etc., etc

"Done the 5th of April, 1642, at Fort Amsterdam, N. N., by order of the Hon'ble Director and Council.

(Signed)

"WILLIAM KIEFT,

"CORNELIS VAN EENHOVEN,

"S. . . ."

The "wagon road" referred to in the foregoing is identified by the experts of the Commissioner of Records in Kings County as the Gowanus road, and there seems hardly room for any reasonable doubt in the point.

Further evidence of the existence of the Gowanus road during the Dutch days is provided by the record of a conveyance from Theunis Nyssen, farmer, to Adam Brouwer. Nyssen appeared before a notary public—one Dirck Schelluyne—on April 1, 1654, and declared that he had conveyed to Brouwer the following:

"Certain parcell of Bushland (woodland) limeting Easterly after (in rear of) his house and land broad 45 rods (551 ft. 3 in.) proceeding to the highway (probably the old road from Gowanus to Brooklyn) and his land so far in the Bush (woods) as ye patent of Theunis Nyssen doth contain (extend), etc."

The words in parenthesis in the foregoing are by the late Teunis G. Bergen, who was conceded to be one of the foremost authorities on the early history of Kings County. Mr. Bergen was a surveyor and so had special ability for accurately locating land grants, roads, etc. His designation of "The Highway" at the old Gowanus road would seem to leave little room for doubt that this was a Dutch road, even if there were no other circumstances pointing to the same conclusions.

The early reference to this as a wagon road indicates that it had been in existence for some time prior to 1642, for wagons were not sent into barren country on aimless errands. Like many other old roads, this was probably developed by the Dutch from an Indian path.

No road within the borders of Kings County had a more fascinating history than the Gowanus road. It was doubtless along this road that the keen Labadist fathers Dankers and Shlyter made their memorable journey in 1679, the record of which is one of the most illuminating pages of early history now in existence. It was along this road that the left wing of the British Army, known as Grant's division, marched in 1776 from the Narrows and held the American forces in check while the plan of battle was developed by the other divisions. It was on this road, too, that later in the day, General Sterling finding his line of retreat cut off by Lord Cornwallis, savagely attacked the British, but was finally overwhelmed.

The purpose of this report, however, is not to review history; it is simply to show that the Gowanus road was of Dutch origin and under the law of Holland, the fee belonged absolutely to the Government.

The Borough President of Brooklyn has forwarded a report of his Topographical Bureau showing the portions of the Gowanus road closed by lawful authority. Following is a copy of said report:

"From the boundary line between New Utrecht and Brooklyn (Sixtieth street) to Forty-ninth street, and from the line between the farms of Bergen and Van Pelt (probably between Forty-third and Forty-fourth streets) to its intersection with Third avenue (about Thirty-ninth street), the road was closed by resolution of the Common Council of the City of Brooklyn on March 30, 1840.

"The road from Third avenue to Fourth avenue was closed by the Common Council, September 27, 1847; a parallel street (Thirty-sixth street) having been ceded, opened and accepted.

"From Third avenue, at its intersection with Twenty eighth street, to the old blacksmith's shop at Thirty-sixth street between Fourth and Fifth avenues, the road was closed by the Common Council, February 23, 1846.

"The Committee on Streets reported to the Common Council at its meeting of April 25, 1853, on a petition to close the road from President street to Sackett street, that the Board had no power to close the road until Fourth avenue shall have been opened for travel. No record found of any further action.

"The following references apply to a branch of the main Gowanus road, known as Gowanus lane; also as Mill road or road to Freak's Mill, which extended from Gowanus road to Court street, near Baltic street.

"A petition to close this road from Court street to Freak's Mill was referred to the Street Committee, October 19, 1835. No data found of any further action.

"The Street Commissioners of the Common Council, on July 5, 1836, reported on a petition to close the road from Warren street to Baltic street, stating that the power to close vests in the commissioners appointed to lay out the street system for the city.

"At a meeting of the Common Council, held on May 13, 1839, the Street Committee of the Common Council reported on a petition to close the road from Court street to Hoyt street, stating that such petition was not in accordance with law.

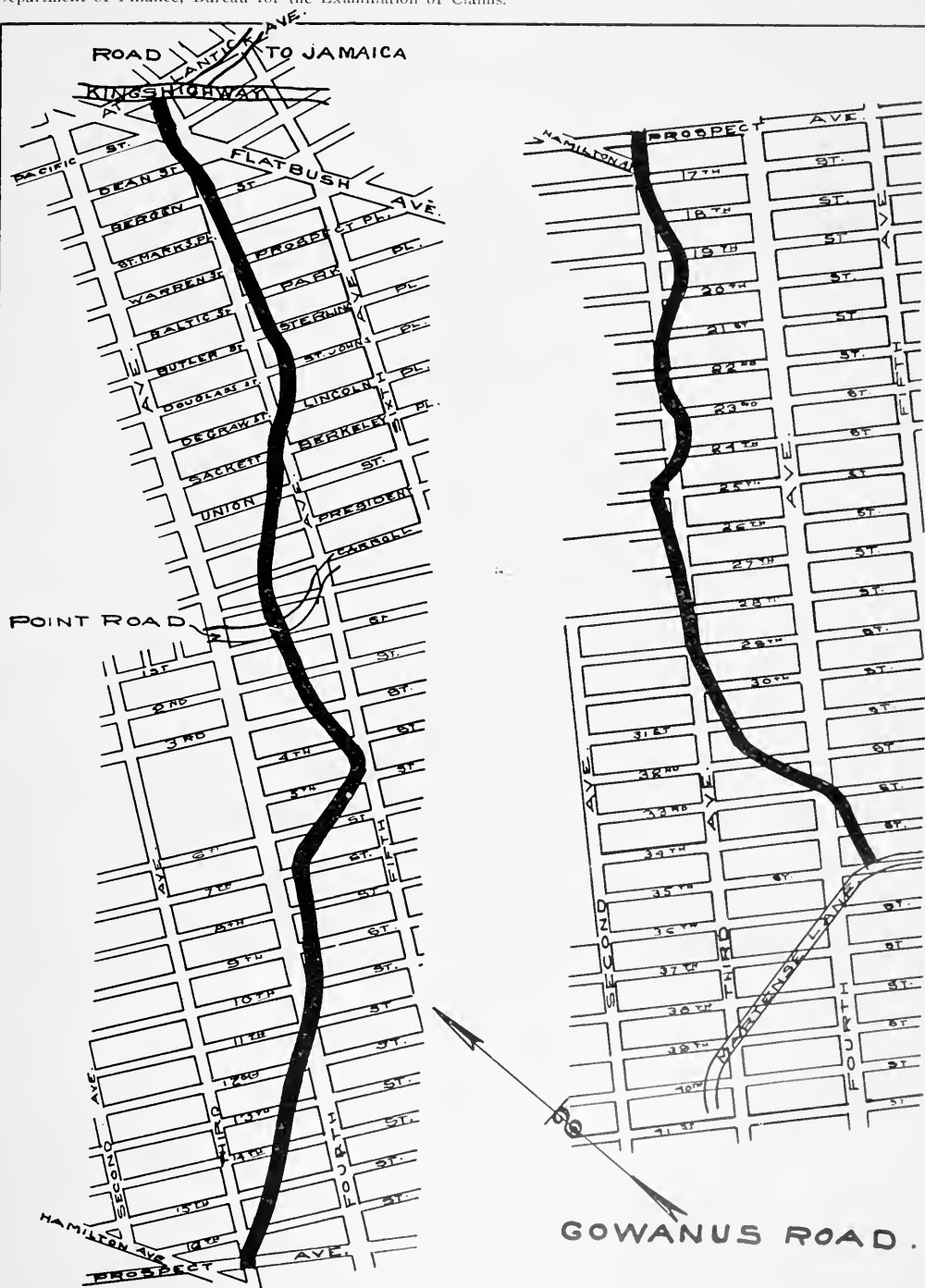
"The Committee on Streets reported April 20, 1844, to the Common Council on a proposition to close the road to Freak's Mill, stating that the road had been heretofore treated as private property and assessments have been levied thereon. The report was laid on the table.

"From Baltic street to Hoyt street, the road was closed by the Common Council, June 30, 1845.

"The Common Council, on August 5, 1839, closed the road from Court street to Butler street.

"The road in the block bounded by Douglass street, Degraw street, Hoyt street and Bond street was closed by the Common Council, November 27, 1848.

"From Butler street to Douglass street, the road was closed by the Common Council April 21, 1851."



HUNTERFLY ROAD.

Length, 2.6 Miles. Intersects 40 Blocks.

The status of this road differs from that of some others discussed in these reports, because many portions of the Hunterfly road are still uninclosed, and, therefore, claims of ownership through adverse possession are not likely to be seriously urged.

Searching through the remains of centuries that are gone is a work that cannot proceed with the rapidity that would be possible had our worthy forefathers left complete records of their roads. The report does not assume to be complete in all detail, but in its preparation many authorities have been consulted, and, as a result, I believe that the road shown as the Hunterfly, was originally an Indian trail leading to the wampum beds on the shores of Jamaica Bay, was developed under the Dutch and used by them for various purposes, particularly as a hay path; and under the British, continued in use as a road for general purposes and in a period well within the memory of persons living now, was used as an avenue of communication from the main road (Jamaica turnpike) to the shore districts of Canarsie.

That the story may be presented in orderly fashion, it will be considered under three heads: First, the Indian times; second, Period of the Dutch Sovereignty; third, Period of British Supremacy down to modern times.

The Indian Times.

Long Island was known in early times as Matanwake, Paymanake, Meaitjwax, Sewanhacky, etc. The last name indicates in a measure the characteristic feature of Long Island as it appeared in Indian times. Sewan was a word practically synonymous with wampum, and the two are often used interchangeably. Sewanhacky means "Island of the Shells," from which it will be seen that the shell deposits on Long Island were unusually abundant. This circumstance is frequently mentioned in early history.

Wampum, the circulating medium of the Indians, was made from shells, and the shores of Long Island provided a natural mint. Jamaica Bay, and particularly about the shores of Canarsie, there were deposits of exceptional extent and value, hence it is not surprising to learn that the Indians established a headquarters at Canarsie, for Indians, like their white brethren, liked to get as close as possible to the currency.

The Indians that inhabited this end of Long Island belonged to the Algonquin race, although referred to as Mohegans by Dutch writers. The Canarsies, a branch of the race, controlled all of what is now Kings County, and a portion of Queens County. The tribe was further subdivided under local names, and settlements existed at Brooklyn, Wallabout, etc., but the headquarters of the tribe appears to have been at Canarsie. A place of such importance, being the capital and financial centre, so

to speak, necessarily had to be approachable, and the location of the Hunterfly road indicates that it was the route followed by braves of the local tribes when they visited headquarters at Canarsie.

The topography of the road indicates that it was originally an Indian trail. In regions of circumscribed area, such as islands, Indians, in making journeys, followed the line of least resistance; that is to say, they followed depressions in the land and skirted hills wherever possible, which accounts for the very crooked lines of many old paths. Being familiar with the entire country, and having no resident enemies to fear, they might select the easiest line of communication. It has been stated by some writers that certain Indian trails followed the highest points, as a measure of military precaution, in order that they might command a view of the surrounding country, and afford timely warning of an approaching enemy. These writers consider long trails passing far beyond settlements or camps and through country that was the common roving ground of hostile forces. Hunterfly road followed the natural depressions through the hills and along the lines of least resistance in the valleys.

On this point the testimony of the late Tunis G. Bergen is appropriate. The Mr. Bergen was a surveyor of wide experience, and an antiquarian of note, as a member of one of the oldest families in Kings County, he had access to many private documents relating to the early affairs of the locality, and, being personally fond of research, the information which he gathered on such subjects was particularly valuable. In an old case which was tried before a jury, Mr. Bergen testified as follows in relation to the Hunterfly road:

"I know the topography of that section of the country over which the Hunterfly road ran. It is a kind of gorge in the hills, a depression, a general depression as a general thing, across the hills. It is the most easy passage for travel in that vicinity, and any other would be difficult—not impossible, but much more difficult. It is the easiest route in that locality."

Question: "What early settlements would find this passage through the hills the most convenient and suitable route for passing from one to the other?"

Answer: "It would connect New Lots and Canarsie, and also Jamaica with the Brooklyn ferry. That portion of Flatlands known as Canarsie it would connect, and that portion called Keuters Hook, but not the Village of Flatlands. This settlement of Keuters Hook was located just after you pass the boundary of Brooklyn on the Hunterfly road near New Lots."

In this case all testimony tending to establish the existence of the Hunterfly road in Dutch times was excluded by the court, although some testimony tending to establish it as an Indian trail was admitted. In this connection Mr. Bergen contributed an interesting bit of testimony which tends to show that Canarsie was a place of importance in Indian times, and was naturally reached by a road. He stated that rather recently heaps of shells had been found at Canarsie. These, Mr. Bergen testified,

were used "generally by the Indians in the manufacture of wampum, and also by the early settlers for the same purpose. The most valuable wampum—the colored wampum—was made of the portion of the shell which is blue, broken off for the purpose of getting the blue portion. White wampum was not so valuable. The heel of the clam, where it is fastened, that portion of the shell is of a blue color. It was the fact that those shells that were found in heaps had that blue portion taken from them as a general thing."

Wampum was not only a medium of exchange, it was also highly prized as an article for personal adornment, indeed, wampum possessed such varied qualities of attractiveness that it was sought by everyone. The mine which produced this desirable commodity was naturally the Mecca of Pilgrims from various districts, and pilgrimages make roads if they do not find them already made.

In our own day let gold be discovered in the heart of a tangled wilderness and very shortly there will be a well trodden road marking the way to the treasure land.

Period of the Dutch Sovereignty.

By 1640 the Dutch had acquired title by purchase to all the land embraced within the present limits of Kings and Queens Counties. The title was secured under three separate purchases, which are noted here to show that all the land within the present limits of Kings County was held by the Dutch, who exercised jurisdiction over it. This will, I trust, dispose of intimations that the Dutch exercised no authority in Kings County.

On August 1, 1638, Governor Kieft purchased from the Indians all the land embraced in the old Town of Bushwick and a large portion of what was later known as Newtown.

On January 15, 1639, the same Governor purchased from the Indians all that portion of Long Island extending from Rockaway eastward to Sickteu Kacky on the south side, and thence across to Martin Gerritsens, or Cow, Bay, on the north shore. With the purchase mentioned above, this gave the Dutch title to all the land in the present County of Queens.

On May 10, 1640, Governor Kieft purchased from Penhawits, the great Chief of the Canarsies, all the land left to him by his father, with all his hereditary rights and titles thereto. The Canarsie tribe claimed the whole of the lands included within the limits of Kings County and a part of the Town of Jamaica.

As early as 1647 Kieft issued a patent to George Baxter and Richard Clof with associates, for a tract of land at Canarsie "with the meadow lands thereto belonging."

Meadow lands deserve special comment because of the importance they held in pioneer days. Being valuable, they had to be accessible, and to be accessible land they had to be approached by roads. These meadow lands derived their value from the grasses which were cut and dried for salt hay. In a primitive country where the

land was unsubdued the cultivation of sweet hay in any considerable quantities involved much time and labor. Meanwhile the cattle had to be fed. The struggle for existence was severe enough of itself, so the bounty of the salt marshes was relied upon for hay to carry the cattle through the winter months.

While there were other salt marshes of limited area in other portions of what is now Kings County, the meadows which skirted Jamaica Bay were relied upon by the inhabitants of almost all the towns for the major supply. Residents of Brooklyn and Wallabout journeyed in their clumsy wagons to the distant marshes in order to secure fodder for the cattle.

From the main road the Hunterly provided an almost direct road to the shore district. The journeys, however, were so tedious and were attended by so much loss to the load en route that the people of Brooklyn and Wallabout in 1662 presented the following petition to Governor Stuyvesant:

"A friendly request to the Honorable Director, General and Council of New Netherlands, whether they will please to grant us a piece of free woodland, situate in the rear of Joris Rapailje's land, along the old path to the bay. This done in the Wallebocht the 18th of March, 1662. Signed by Jans Joris Rapailje and five others."

It was answered:

"The desired piece of land is rented to the petitioners on condition that they remove their dwelling houses to one or the other settlement most convenient to them, and do not make a new settlement. Dated as above, March 30, 1662."

The old path to the bay referred to in the petition could hardly have been any other than the Hunterly road. It is so identified by the experts of the Commissioner of Records office in Kings County after a careful and thorough search of the records and the situation in the locality at that period supports the selection. Rapailje's land faced on Wallabout Bay and extended back to a point bordering what is now known as the Bedford section. The rear of Rapailje's land would, therefore, be that territory which now lies in the Bedford section, and the only path leading through that section to the bay was the Hunterly road. It will also be observed that in 1662 the path was referred to as "old," which indicated an existence long before that time, and describing it as the path "to the bay" indicates that it was an avenue through which the shore districts were connected with some of the settlements.

On May 26, 1663, the following petition was addressed to Governor Stuyvesant:

"May 26, 1663.

"We humbly and friendly present to the Honorable Director General and Council that we have lately obtained from your Honors the grant of a piece of land in the rear of the Wallebocht near Marcies plantation and as your petitioners have cleared their enclosed lots, some of them having already planted and sown, while others are beginning to plant and as we would live very far from our property, we request all together, that we may be allowed to form a hamlet there among ourselves to protect our property.

Not doubting that your Honors will grant our request and do us a great favor, for which we shall always feel obliged, we await, etc."

Signed Thomas Lambertson and fifteen others.

After reading the foregoing petition it was decided: *Fiat quod petitur.* Date as above.

These two documents form the foundation of what later became the Village of Bedford. The first, it will be observed, was a grant of land, but the foundation of a new settlement was expressly prohibited. This restriction was no doubt placed in the grant for a military reason. With a burgher army numbering but a handful of men it was necessary to keep settlements within the lines at "concentrations" as a measure of protection. The second document prays for permission to establish a hamlet, from which circumstances it would appear that a sufficient number of persons had become interested in the movement to provide self protection, and so, by granting the permission sought, Bedford sprang into existence as a political community.

Shortly after this the Governor issued patents, each embracing about twenty morgen, or forty acres, of land, to several persons who formed the hamlet of Bedford. These grants have been carefully searched by the experts in the office of the Commissioner of Records in Kings County, and the result shows that they were bounded by the Clove and Hunterly roads, which formed natural boundaries.

A petition which some of the settlers of Brenekelyn addressed to Governor Stuyvesant on March 1, 1663, described the difficulties which attended the handling of hay over an extended territory and seeks to minimize the difficulties by establishing a new settlement. The locality sought was probably Bedford, which would have lessened the distance for a considerable extent. The record does not show that this petition was granted, but the failure is explained by the fact that the people of Wallabout, and some from Brooklyn, already had claims which are set forth in their second petition.

Though somewhat out of the order of events, it will be appropriate to advert here to a conveyance dated May 13, 1663, and recorded in Liber 1 at page 126, Register's office, Kings County. Under that date Hendrick Classen Vechten and John Garretse Dorlent, on behalf of the people of Brenekelyn, conveyed to Jacobus Vandewater:

"All that piece or parcel of land with appurtenances lying situate and being near Bedford, in the township of Broeckland in Kings County upon the Island of Nassau, formerly Long Island bounded by a black oak tree marked N on the one side and W on the other side of said tree, on the south side of the land of William Poss of Bedford, in the town aforesaid and beginning at said tree and stretching along the highway aforesaid to Flatbush, alias Midwouth in the County aforesaid to a like black oak tree marked on the one side with N and on the other side with a W, lying being and standing under the hills of the town of Broeckland aforesaid in breadth or length of said piece or parcel of land with the same division line, soe as the layes of Bedford aforesaid are layd out stretches soe far as the hay path from Bedford aforesaid to the

New lots of Flatbush aforesaid and therein equal breadth with the other end before alongst the high path from Bedford aforesaid to the New Lots of Flatbush aforesaid," etc. The consideration was one hundred and fifty pounds.

Here the hay path from Bedford to New Lots is the Hunterfly road of later times and the reference to the parcel as having the same boundaries as the lots laid out at Bedford would seem to establish beyond any reasonable doubt in the mind of a reasonable man the fact that this path—the Hunterfly road—provided the natural boundary of the Bedford plantations that were laid out under the Dutch sovereignty.

Additional evidence is afforded under date of 1693 when the people of Brooklyn divided the common lands into three divisions. Reliable historians and surveyors agree that the dividing line between the first and second divisions was the Hunterfly road, therein called the path of New Lots. The division is so shown on old maps.

This coupled with the deed cited above and both considered in relation to the establishment of the Village of Bedford and the grant along the "old path to the hay" seem to establish the identity and existence of the Hunterfly road, in Dutch days, as the successor of an Indian path that was in existence long before that period.

Period of the British Sovereignty.

It is, perhaps, beyond the scope of this report to follow the fortunes of the Hunterfly road into the period of the British possession, having expressed the opinion that it was a Dutch road, but there occurs in this connection a point that may kindle the interest and arouse the ingenuity of legal minds.

New Netherland was surrendered to the British September 8, 1664. The terms of surrender provided that the Dutch should continue to enjoy property rights, customs and divers other things, all of which came about as a result of a grant made by Charles II. to "our dearest Brother" James, the Duke of York. Charles II. was known as the merry monarch, which title was the result of certain amiable qualities. The royal attributes of the merry monarch did not, however, include any appreciable regard for the royal word and so it came about that the grant which Charles made to "our dearest brother" was dated March 12, 1664, at which time the Dutch not only held the title, but actually occupied a considerable portion of the land which the merry monarch sought to bestow upon his kinsman. A portion of the tract had already been granted to John Winthrop, but that is a mere incident.

The practical effect was that Charles II. granted to the Duke of York something that did not belong to the Crown of England. To provide a shadow of legality to cover the land grabbing operations which the English engaged in at that time, it was claimed that England had secured title to all of America by right of discovery, because the Cabots and Frobisher had sailed along the coast. This claim was wholly at variance with the recognized rule established by Queen Elizabeth, who declared that mere discovery without settlement carried no title. Had Charles been correct in his view, both the Spanish and French could have proved title prior to the English through the discoveries of Verrazano in 1523, and a French trading settlement which existed in the

heart of the present New York in 1510; and the Spanish through Estevan Gomez who visited New York harbor in 1525.

Acting under authority of this questionable grant, the Duke of York through Richard Nicols published a code known as the Duke's Laws. A convention at Hempstead went through the motions of ratifying this code, but they were not supported by the people and the delegates became so unpopular that it was necessary for the Court of Assizes to threaten with a fine any one who should speak his opinion of the delegates.

It is a well settled principle of international law that the laws of a conquered country remain in full force and effect until altered by the new sovereign. In other words, sovereignty may pass without in any wise affecting the established law.

In view of the fact that all the authority under which the Duke's Laws were promulgated, and, indeed, under which the whole proceeding was conducted, is found in the grant of land which did not belong to the grantor, were any of these acts legal and was the English law really established here before 1674, when by the provisions of the treaty which terminated the second occupation by the Dutch, New York was formally ceded to England? These are questions for legal minds to ponder.

The foregoing may seem rather distant from the Hunterly road, but the connecting link is here. On May 14 1670, representatives of Brooklyn purchased from the Indians a tract of land which was bounded on one of its courses by the "port or entrance" of a line of hills. While the searches to date are not entirely satisfactory, there is reason to believe that this port or entrance may have been the Hunterly road and if the Dutch law still prevailed at that time this would provide another link in the chain. The settlement of the point would also prove of value in the consideration of other roads.

It seems unnecessary to follow the history through later years. Advancement and enterprise are stretching their arms across the section traversed by this road and now but few traces remain of the ancient highway that felt the stealthy tread of the moccasin and the jolt of primitive wheels, but slumbering in the pages of forgotten yesterdays is a story that leads back over the Hunterly road to the dim period when the watch fires of the Indians first flung their ruddy flare across the dark waters of the bay.

The Topographical Bureau of the Borough President's office in Brooklyn reports that the following portions of the Hunterly road have been closed:

"The Commissioners of Highways of the Towns of Flatbush and New Lots, on March 6, 1877, closed that part of Hunterly road lying north of Rockaway (now Riverdale avenue), and east of Rockaway avenue.

"On March 23, 1893, the Commissioners of Highways of the Town of New Lots closed certain parts of the old Hunterly road, and laid out other connections of the road in place of the portions closed in the territory bounded approximately by East New York avenue, Barrett street, Dumont avenue and Tapscott street.

"The papers and maps relating to the above two (2) items are on file in the office of the Commissioner of Records.

"By an act of the Legislature, passed May 3, 1869 (chapter 506), all that part of Hunterly road which lies north of Herkimer street and south of Bainbridge street was discontinued and closed.

"On page 42 of the Brooklyn Compendium, there is a reference to the closing of Hunterly road, from Jamaica turnpike to the City line, to take effect whenever the eastern part of Fulton avenue and Howard avenue, from Fulton avenue south to the City line shall be opened and fit for travel. This item is probably taken from the report of the Commissioners appointed under the act of the Legislature to lay out streets, avenues, etc., in the City of Brooklyn (chapter 132 of the Laws of 1835).

"Up to the present time, I have been unable to locate a copy of the report of these Commissioners, and it seems to me to be somewhat doubtful just what these Commissioners did or intended should be done regarding these closings. The portion of the road closed by chapter 506 of the Laws of 1869 is included in the portion of the road referred to in the Compendium."

The records of the office of the Commissioner of Records in Kings County do not show any additional proceedings closing portions of the road.

The sum of those contained in the report of the Topographical Bureau does not embrace the entire road. Two sections of considerable area have not, apparently, been declared closed by legal authority, and one section was laid out in 1863, to take the place of the original lines, hence that particular section was not Dutch.

* * * * *

In the preparation of this report many authorities have been consulted, but I desire to properly acknowledge a special indebtedness to the office of the Commissioner of Records of Kings County, and the Topographical Bureau of the office of the Borough President of Brooklyn, for information and suggestions drawn from an extensive knowledge of the subject.

I append a list of some of the authorities consulted:

Decisions, Supreme Court of the United States.

Gerard on Titles.

O'Callaghan's History of New Netherland.

Broadhead's History.

Furman's Antiquities.

Ostrander's History.

Stile's History of Kings County.

Publication of the Grolier Club.

Fiske's Dutch and Quaker Colonies.

Colonial Documents published by authority of the Secretary of State.

Old maps, surveys and documents.

Various general and local histories and legal papers.



HUNTERFLY ROAD.



HUNTERFLY ROAD.

KINGS HIGHWAY.

Length, 9.4, Exclusive of Brooklyn, Flatbush and Jamaica Turnpike. Total Length, 13.7 Miles. Intersects 259 Blocks.

Every road worthy of the name, and many that were not, has doubtless been known at some period of its history as the Kings highway. This was, of course, intended as a mark of respect to the reigning sovereign, and when that dignitary happened to be a woman the Kings highway became the Queens highway.

Development and settlement gave local names to various sections of roads once called by a common name, and so it happens that while many roads to-day have an individuality of their own they were once called the Kings highway.

Of the road under consideration it may be said that, roughly speaking, the part now known as Kings highway connected Midwout (Flatbush) with New Amersfort (Flatlands), then swept south and went to New Utrecht and so westerly toward the shore. There is some doubt as to just where the road touched the shore line, whether in the neighborhood of Nyack Point (Fort Hamilton) or in the neighborhood of Yellow Hook on the upper bay.

That the Kings highway is one of the oldest roads within the borders of Kings County there can be very little doubt. In early times roads always connected objective points, such as settlements, waterways, etc. It will be seen that the Kings highway was a bond connecting the earliest settlements, hence its age should be computed from the time when such settlements were made. The towns connected by this road were settled between 1636 and 1657, all during the period of the Dutch sovereignty here, so it would not seem to leave much doubt that the Kings highway, so called, was originally a Dutch road.

There is considerable evidence to prove this. Dr. Strong, in his history of Flatbush, published with Stiles's "History of Kings County," refers to the road as an Indian path in the following:

(Stiles, volume I, page 214, "History of Town of Flatbush," by Dr. Strong.)

"The first houses or settlements were probably in the most southerly portion of the present village, along the Indian path from New Amersfort to the hills, now the direct road through the village from Flatlands to Brooklyn. We have but little positive knowledge concerning the number or the names of the first settlers, or the locations secured by them between the first purchase of 1634 and the patent of 1651. But Dr. Strong states that after the patent of 1651 farms were laid out into 48 lots or tracts of land extending 600 Dutch rods east and west on each side of the Indian path and having severally an average width of 27 rods."

Governor Stuyvesant on June 4, 1654, issued the following grant in which the road is called the highway:

(Book H. N., translations from the Dutch at page 11.)

"Petrus Stuyvesant, on behalf of their High Mightiness, the Lords States General of the United Fatherland and the Noble Lords Managers of the Incorporated West India Company, Director General of New Netherland, Curacao and the Islands thereof with the Noble Lords of the Council, Declare that we on the day of the date underwritten have given and granted unto Arent Van Hatten a certain parcel of land lying on Long Island in the Town of Midwant, on the east side of the Highway adjoining on the south side the land of David Provost, on the east and north the Highway; is in length 300 rods, in breadth 100 rods—as much as is enclosed by posts and rails—Upon express conditions and stipulations etc.

"Done at Amsterdam in New Netherland, the 4th of June, 1654."

On December 26, 1661, Governor Stuyvesant in the following patent refers to the road as "The Cross Road":

(New Utrecht Records B, page 28.)

"Thomas Jansen, on the 26th of December, anno 1661, was granted by the then Governor Petrus Stuyvesant to Thomas Jansen a parcel of land, situate on Long Island around the town of New Uytrecht on the northwest side of Rutger Joosten, on the southeast side of Teunis Idense division line on either side northeast as well as easterly, long six hundred rods, wide four and twenty rods, large four and twenty morgens; a home lot on the northwest side of Claes Claessen, on the southwest side of the Cross Road wide twelve rods, long five and twenty rods; which deed on this day the 28th of October 1677 was shown to the constable and Overseers of the Town who, in recognitions of the truth have signed with their own hands hereunder.

Henderick Matyen

Smack (This is the mark of
Luykes Mayers, Constable,
with own hand placed.
Jan Vandeventer,

Known to me
Michel Hainelle,
Clerk."

In 1684 Crackewasco, Arrenopeah, Mamckto and Anenges, Indians, as true owners of the land, made a conveyance of their right, title and interest in the following:

(Stiles History, volume 1, page 162, History of Gravesend.)

"In 1684 Crackewasco, Arrenopeah, Mamckto and Annenges, the true proprietors of land called Makeopaca, made a conveyance offering a former conveyance of the following:

"Beginning at the most eastward end of the Beach called by the Indians Meoung, bounded on the westmost side by the land heretofore purchased from Chippahig, and on the eastward side by the creek commonly called Strome Kill, and soe along from the head of said creek, through the middle of the meadow and valley till they come to a white oak tree standing by the Flatland Wagon Path, and soe running to another white oak tree standing by the Utrecht wagon path, etc.

"This was a confirmation of Indian deeds of 1645, 1650 and 1654."

All these documents have been carefully examined and considered by the experts in the office of the Commissioner of Records of Kings County, and they identify the road referred to as the Kings highway. The following communication from the Commissioner of Records shows the Kings highway to be a Dutch road, and also those portions that have been closed by lawful authority:

"It was called 'The Highway' in a patent from Governor Stuyvesant to Jochem Garritsen Cook, May 27, 1656. See Colonial Document, volume 14, page 349. Also called 'The Highway' in a patent from Governor Stuyvesant to Bruyn Barentsen, October 4, 1658. See Colonial Document 14, page 425.

"The above patents were in vicinity of the old Brooklyn Church.

"In a patent to Arent Van Hattum, of Flatbush, June 4, 1654, as found in O'Callahan's New Netherland, it was also called 'The Highway.'

"In New Utrecht Town Records, volume B, page 28, it was called 'The Cross Road' in a patent to Thomas Jansen, December 26, 1661.

"From above authorities we conclude the road to be of Dutch origin.

"Lacking specific information as to the particular portion of Kings highway as being closed, I quote authorities for such portions as are accessible.

"Under Schedule E, page 42, Brooklyn Compendium, chapter 132, Laws 1835, Flatbush turnpike (Kings highway), from Jamaica turnpike to City line, is closed when Flatbush avenue is opened.

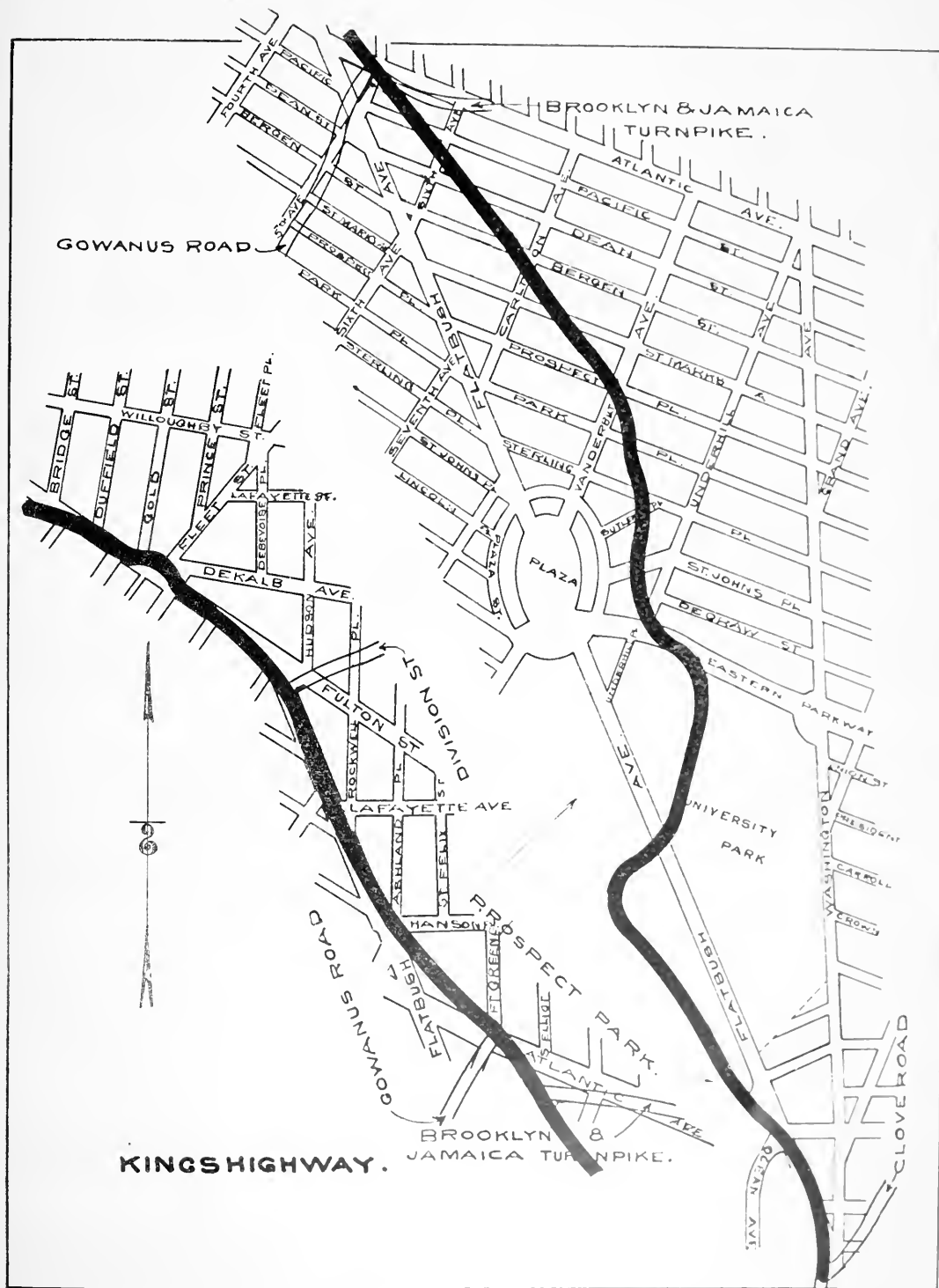
"Under Schedule K, page 82, Brooklyn Compendium, chapter 483, Laws 1860, Flatbush road (Kings highway), between Hanson place, Atlantic avenue, Canton street and Flatbush avenue, not required for the extension of Felix street, is closed.

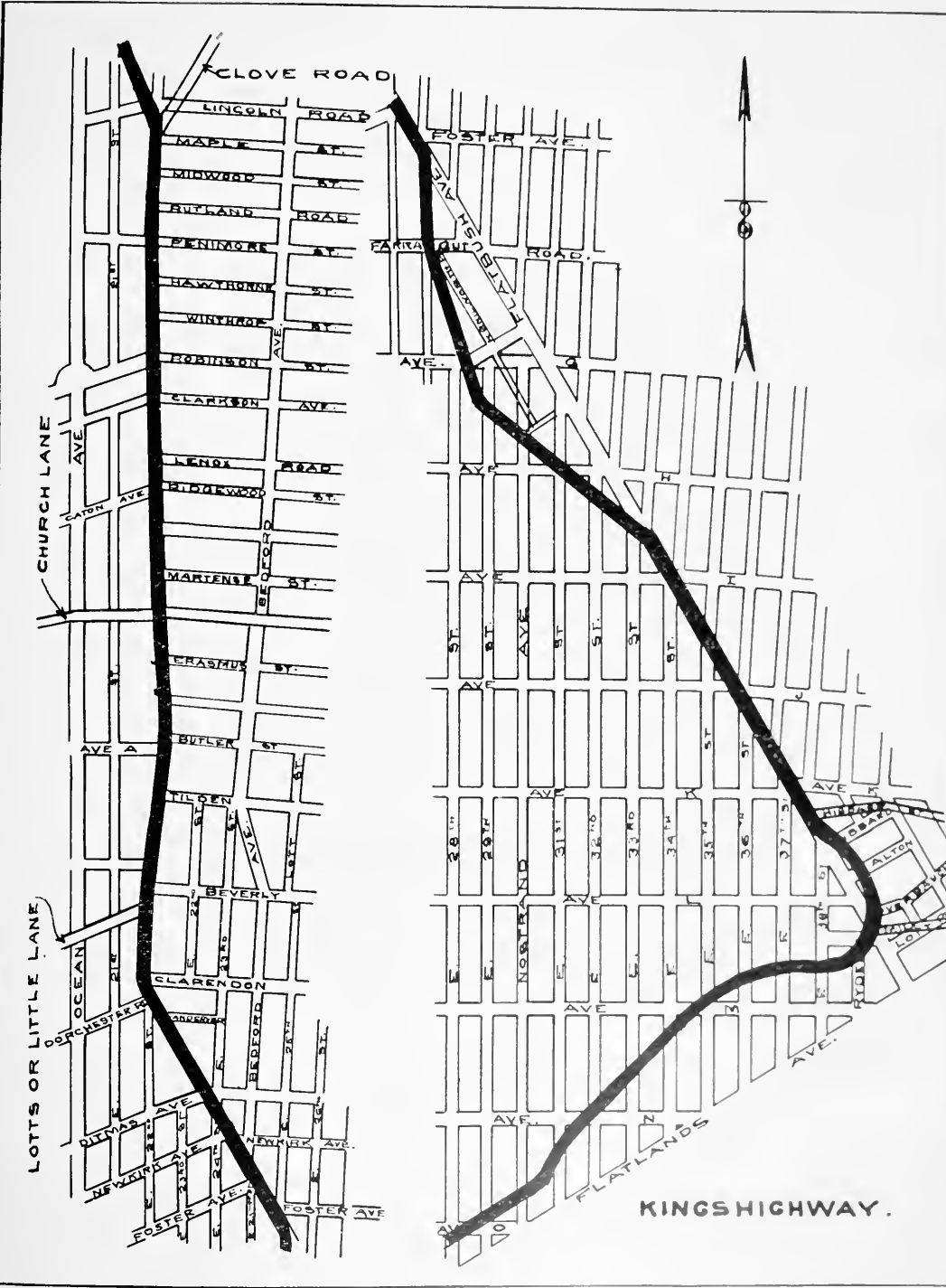
"In Flatlands (Thirty-second Ward) the Commissioners of Highways, by resolution May 11, 1894, closed the old road (Kings highway) between Avenue K and Magaws lane.

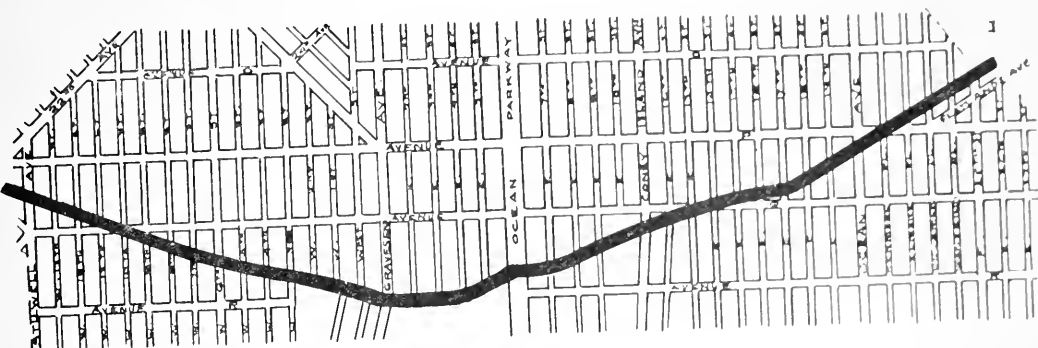
"In New Utrecht (Thirtieth Ward) the Board of Estimate closed Kings highway, from Seventh avenue to Eleventh avenue. See map in Register's office, filed October 9, 1903.

"Same ward, Kings highway, between Fourteenth avenue and Eighty-first street, was closed by Board of Estimate February 8, 1904. See map in Register's office.



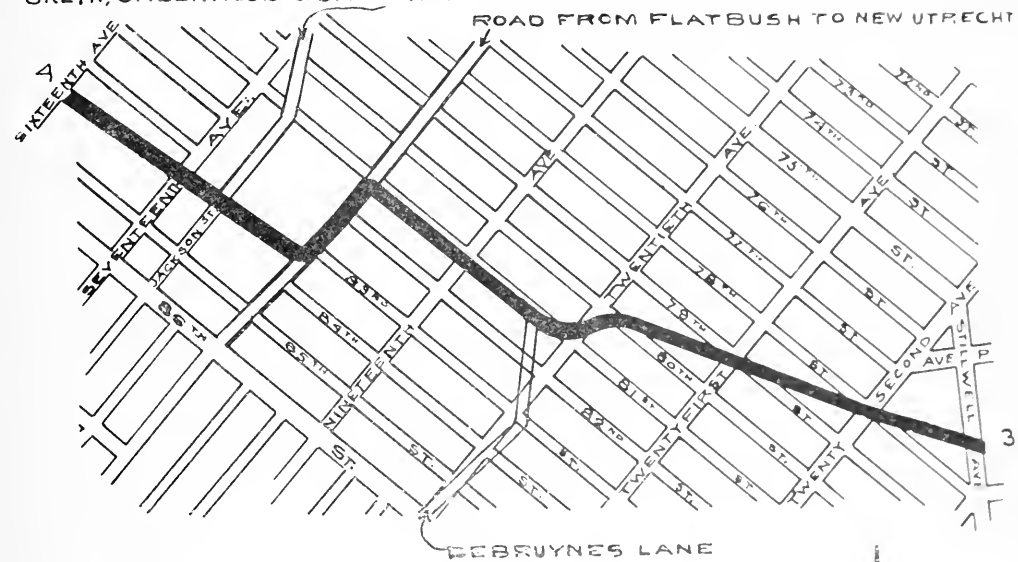






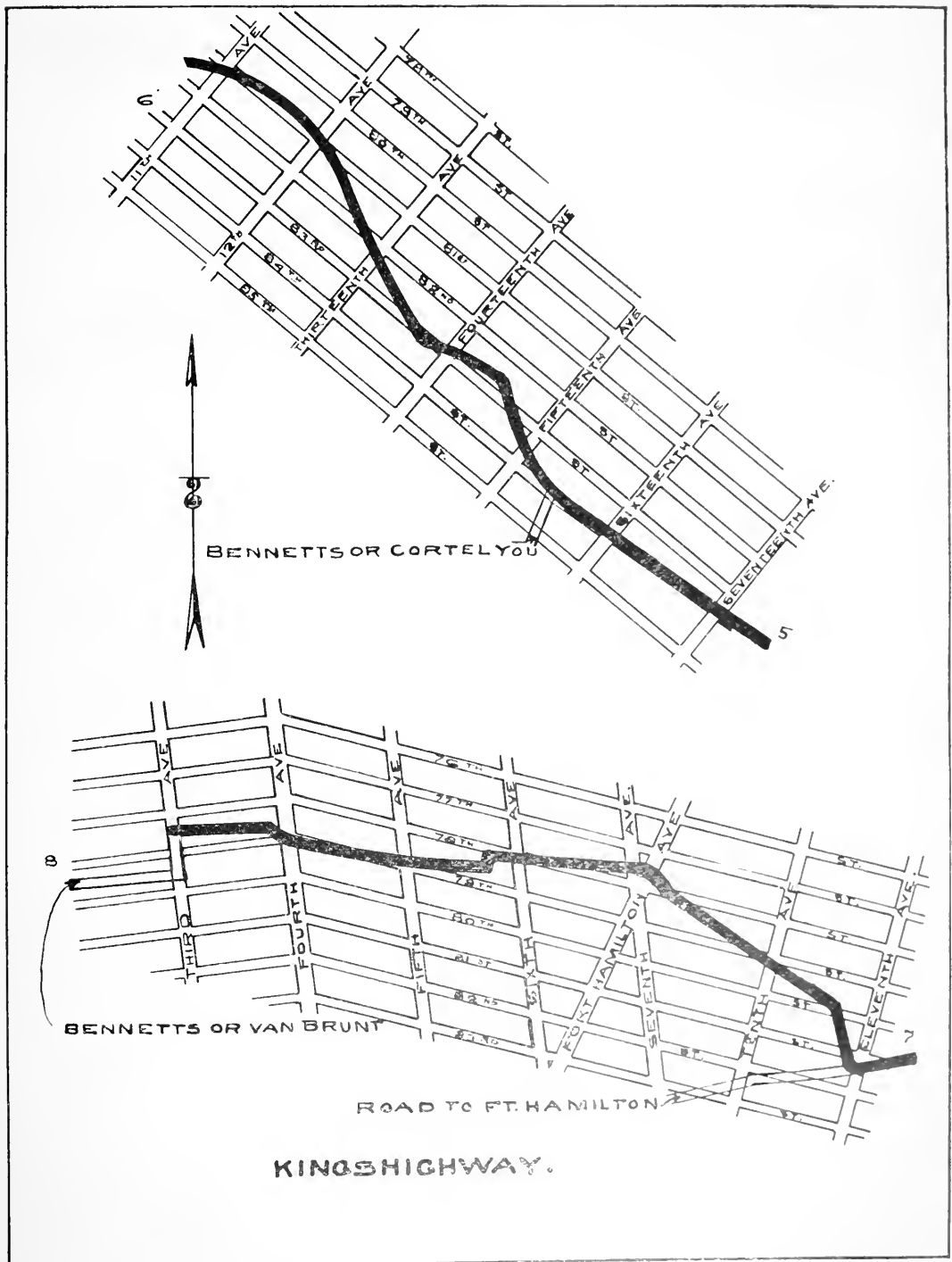
BKLYN, GREENWOOD & BATH R.R.

ROAD FROM FLATBUSH TO NEW UTRECHT



KINGSHIGHWAY.





KINGSBRIDGE ROAD.

Permit me to state at the outset that I am far from satisfied that the references which now seem to fix the origin of the road are the earliest that will be found upon a thorough examination of early records. This is a work that will take years, but in my opinion it should be undertaken at once, for the longer it is delayed the more difficult will it become. That, however, is apart from the subject.

Kingsbridge is a name that is closely allied to the history of upper Manhattan and The Bronx. The bridge whence comes the name appears to have been an itinerant sort of structure, which was located at various points along Spuyten Duyvil Creek.

The original bridge was built in 1695 by Frederick Phillips, who had patented vast areas of land in Westchester County. This structure crossed Spuyten Duyvil just west of the present line of Broadway, and the Kingsbridge road stretched away from the bridge. The original piers which supported this ancient structure are standing to-day. The Kingsbridge road of the present day, which includes most of the bed of the old road, still leads to the bridge. "Valentine's Manual of the Common Council" (1862, at page 518) says of the Kingsbridge road: "This was an ancient road and was the post road for New England. It was resurveyed in 1707 and new courses in some places were laid down," etc. The fact that the road was resurveyed in 1707 would indicate that it was of some age at that time and of considerable importance.

"Valentine's Manual" (1856, at page 474), under the caption of Spikendivil, says:

"This name has been recently more generally known as Spuyten Duyvil, but the former is the orthography at the earliest mention we find of it in the records, which occurs in 1695, or nearly one hundred and sixty-five years since. At that time a proposition was made to build a bridge over it. The privilege which was, in the first instance, granted by the Legislature to The City of New York, but was surrendered by the Corporation to Frederick Phillips, who became about that time the patenter of a great part of Westchester County, and who was about establishing his residence on his manor and leasing out his lands. The bridge was a necessary way of communication by land with the City. It was about that time that Kingsbridge road was laid out through the wooded hill along the northerly part of Manhattan Island."

Another reference which shows that the road was well established in 1704 is the "Journal of Madam Knight" of her trips from New Haven to New York. This is quoted in "New York and Albany Post road from Kingsbridge to the ferry at Crawler over against Albany." Charles G. Hine, 1905. Following is a quotation from the Journal:

"Spitting Divil—also Kingsbridge—where they pay three pence for passing over with a horse, which the man that keeps the gate set up at the end of the bridge receives."

The minutes of the Common Council also afford some early reference to Kingsbridge. It appears from these minutes that from January 10, 1699, until January 25, 1700, the City fathers were engrossed in a controversy between one Jasper Nessepott and John Marsh. Jasper desired to erect a mill at Kingsbridge and applied to the Common Council for permission. On January 16, 1699, the Council named a committee composed of Alderman D. Peyster, Alderman Clock, Mr. Brasier and Mr. Tiebout, to view the place and report "whether the erecting of the said mill will hinder the passage of boats and sloops round this island, and whether it will be convenience to grant him liberty to erect a mill thereon and make reports thereof to the next Common Council." (Min. C. C. Meeting of Jan. 16, 1699-1700, vol. 2, p. 97.)

The Committee reported favorably and recommended that permission be granted "on condition that he take out of the way the stones and rocks on the other side thereof that the same may not hinder the passage of Boats and Canaws and when any is to pass att their Reasonable Request he is to shutt his Shutes and on the other side of the bridge erect A post in the water and have a Rope ready to assist them in passing. Which Report is approved."

Up to this point things looked rather rosy for Jasper, but even at the same meeting clouds began to gather. The minutes of the Common Council record that a petition from John Marsh was read, in which he prayed that he be made a party to the grant. This was on the ground that Jasper was not the original mill man, but that he (Marsh) was the first projector thereof. On February 19, 1699, the Council listened to arguments and decided that they would make the grant to Nesspot and Marsh jointly, provided Marsh should observe all the covenants agreed to by Nesspot.

The combination did not last long. For, on September 24, 1700 (vol. 2, p. 113), a committee composed of Alderman Baymike, Mr. Tiebout and Mr. Mosler was named to adjust the amount that Nesspot should pay Marsh "for his Projection contrivance and work done at the Mill att Kingsbridge," and, further, that should Nesspot comply with all conditions the mill should be his. On January 25, 1700 (vol. 2, p. 134), the committee reported that Jasper should pay twelve pounds to Marsh and should have the mill and so ended the trouble apparently.

If there was sufficient business at Kingsbridge for a mill, it seems hardly necessary to argue that there was a road leading to it, for while much of the traffic might have been by water, a considerable portion was doubtless by wagon.

On September 12, 1771, the Committee on Roads was ordered to confer with the Mayor of Westchester concerning the "repairation" of the Kings Bridge. (Vol. 7, p. 313.)

There is basis for the belief that there was a road from New Amsterdam to Harlem in the Dutch days for there was traffic between the settlements. There is also authority for the statement that the first bridge over Spuyten Duyvil was built by the Dutch, but this authority owes its prominence to literary charm rather than historical accuracy.

When New Amsterdam was beset by enemies, stubborn old Peter Stuyvesant resolved to fight. He needed re-enforcements and determined to arouse the patriotism of the solid citizens in the settlements along the Hudson. The courier selected by the Governor was Jan Van Corlear who was fond of dining often and well. It is related that Van Corlear started forth with a goodly flask of Hollands as a companion and hastened to awake the patriots of Harlem, Sleepy Hollow, Tarrytown and other peaceful villages. When Van Corlear reached the stream separating Manhattan from the mainland, a terrific thunder-storm was raging and the water was racing between the banks, whipped to a seething foam by the fury of the storm. Van Corlear halted. He must cross. There was no bridge. Caressing the bottle of Hollands he swore that he would cross the stream "in spite of the devil." In he plunged and swam bravely for a while but was overcome. Just before he sank, Van Corlear sounded a long blast on his horn and this was the signal for spirits of the storm to gather and mock him. So impressed were the farmers by this tragedy and so thoroughly frightened, that in order to defeat the evil spirit of the waters, they built a bridge over them. Thus did the valiant Van Corlear by an oath give a lasting name to the boiling creek, but even unto this day the sound of Van Corlear's horn is heard when summer storms are booming along the hills.

A description of that portion of the Kingsbridge road within the borders of Manhattan, written by John Randel, Jr., Secretary, Surveyor and Chief Engineer to the Commissioners of Streets and Roads, who laid out the plan of the City, is contained in Valentine's Manual (1864, pages 853, 854, 855). This is especially valuable because of the detail in which distances are given. Following is the description:

"The Kingsbridge road commenced at the crossing of the middle road by the eastern post road at Ninetieth and Ninety-second streets; and continued along the eastern post road through the barrier gate at McGowans Pass to Harlem lane, near One Hundred and Eighth street, where it diverged eastwardly to Harlem; it thence continued along the lane over Harlem flat to Meyer's corner, about 67 yards west of Eighth avenue at One Hundred and Thirty-first street, passing in its route along Harlem lane, the residence of Valentine Nutter in Sixth avenue, between One Hundred and Ninth and One Hundred and Tenth streets; it thence passed 73 yards west of the southwest corner of Harlem square which was laid out on the Commissioner's plan from One Hundred and Seventeenth to One Hundred and Twenty-first street, and from Sixth to Seventh avenue, and contained eighteen and one-tenth acres; crossed the road leading from Manhattanville to Harlem at One Hundred and Twenty-fifth street, between Eighth and Ninth avenues and east of the Manhattanville Academy at One Hundred and Twenty-sixth street and Tenth avenue. From Meyer's corner the Kingsbridge road continued northward between Eighth and Ninth avenues to its intersection with the Bloomingdale road at Ninth avenue, between One Hundred and Forty-sixth and One Hundred and Forty-seventh streets; passing in its route from Meyer's corner west of the country residence of Cadwalader D. Colden, who was mayor of the city in

the years 1818, 1819 and 1820, standing in Seventh avenue, between One Hundred and Thirty-ninth and One Hundred and Fortieth streets passing Bussings Point road, 133 yards west of Eighth avenue, between One Hundred and Forty-third and One Hundred and Forty-fourth streets; then ascending Bradhurst Hill west of a revolutionary redoubt at One Hundred and Forty-fifth street, and connected with the Bloomingdale road, ten yards east of Ninth avenue, between One Hundred and Forty-sixth and One Hundred and Forty-seventh streets; this Kingsbridge road thence passed the ten mile stone, the southern side of which is described in the Commissioner's report as 'being touched at the surface of the ground by the southern side of One Hundred and Fifty-third street;' thence past 120 yards west of the residence of Mme. Jumel, the widow of Stephen Jumel, and afterwards the widow of Col. Aaron Burr, standing 150 yards east of Tenth avenue, between One Hundred and Sixtieth and One Hundred and Sixty-first streets. At One Hundred and Sixty-first street the road passed east of and opposite to Mount Washington Spring at Eleventh avenue, and redoubts, etc. From Eleventh to Twelfth avenue, at One Hundred and Seventy-fifth to One Hundred and Seventy-sixth street, the road passed fifty-seven yards east of Twelfth avenue and 900 yards east of a fort and redoubt on a point of rocks on Hudson's River about thirty yards south of One Hundred and Seventy-sixth street and 200 yards west of Fourteenth avenue. From this point to the wharf at Fort Lee Ferry was 1,950 yards, and to the opposite shore of the Hudson River, foot of the Palisades, was 1,267 yards, as measured by triangulation in 1821. At One Hundred and Eighty-third street the road was forty-three yards east of Twelfth avenue and 343 yards east of Fort Washington on Thirteenth avenue. At One Hundred and Ninety-second street the road was thirty-three yards west of Twelfth avenue and 533 yards west of Fort George. At One Hundred and Ninety-sixth street the road was 133 yards east of Thirteenth avenue and 233 yards east of Fort Tryon. At Two Hundred and Sixth street the road crossed the west side of Twelfth avenue and was 730 yards east of Tubby Hook Point and Hudson's River, from which point the oblique distance across that river to Norman's cottage on the New Jersey shore was 1,570 yards, as measured by triangulation in 1821. Between Two Hundred and Eighth and Two Hundred and Ninth streets, this road was opposite the residence of Jacobus Dyckman and 150 yards west of Eleventh avenue. From Two Hundred and Thirteenth to Two Hundred and Seventeenth street the road passed along the foot of the eastern slope of marble quarries. At Two Hundred and Sixteenth street the road was thirty-three yards west of Tenth avenue and 1,070 yards east of Cock Hill Fort on high ground between Spuyten Duyvil (Spiteing Devil) Creek and Hudson's River. At Twenty-second street the road crossed the canal, cut across New York Island from Harlem River to Spuyten Duyvil Creek. At Two Hundred and Twenty-sixth street the road was 150 yards east of Fort Prince Charles on Tenth avenue at the southerly side of that street. At Two Hundred and Twenty-eighth street and Tenth avenue where the most northerly monument on New York Island was placed by me, Kingsbridge road was about thirty-four yards east of that avenue; and McCombs' Mill below the Harlem

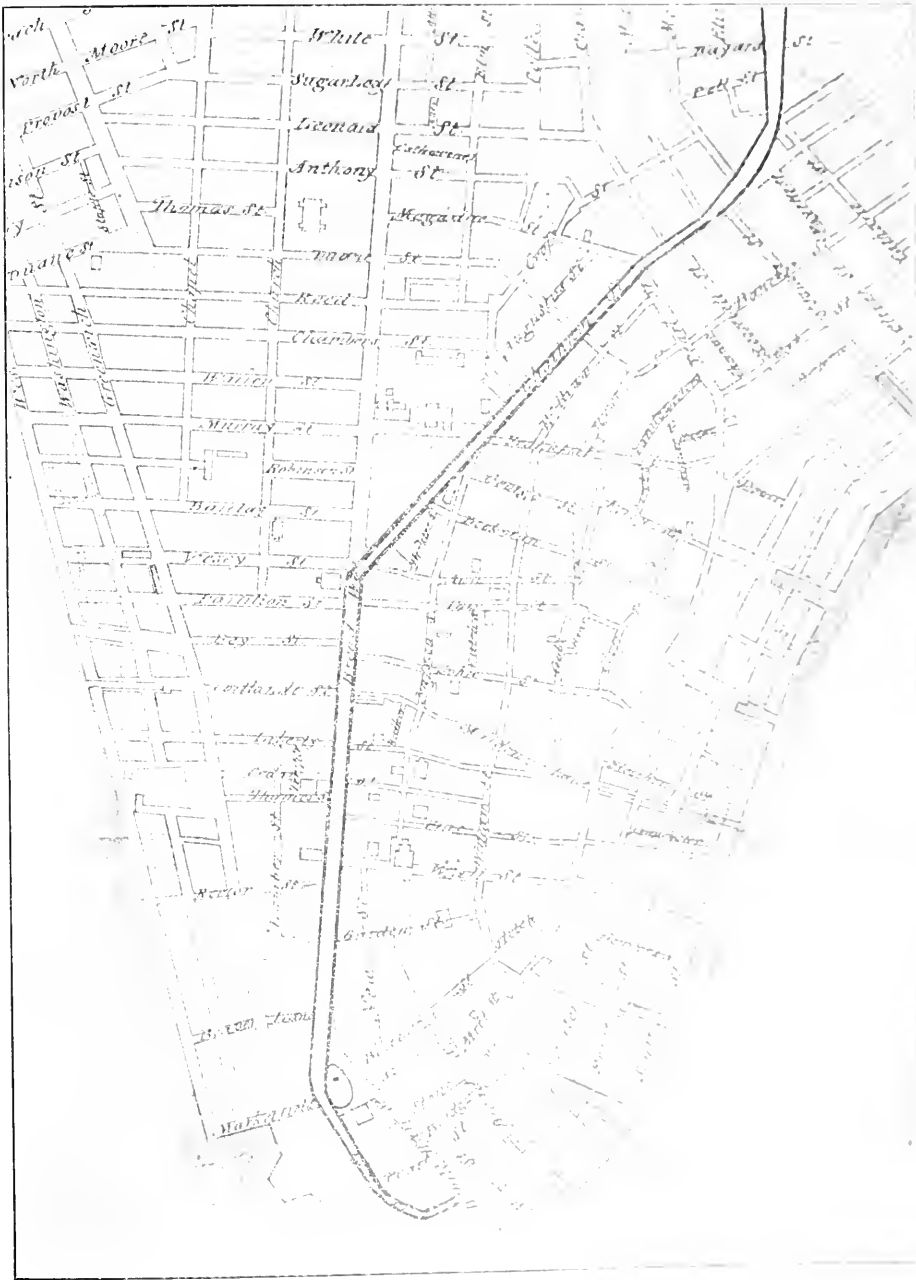
River, and along the west side of Kingsbridge, was about seventeen yards of that most northerly monument."

There is one other matter to which I desire to draw your attention. It applies not only to this road but to all the so-called English roads in which the City is supposed to have only an easement and not a fee. While it is true that Land may have been taken from individuals for the purposes of constructing roads, it is also true that these same individuals were doubtless compensated for the Land, even as they are to-day in cases where the City acquires land in fee to lay out a street. An illustration of such a proceeding in the early days may be found in the laying out of the road to Harlem, 1669, 1671, 1672. In this case, commissioners were appointed and appraised the land taken at twenty guilders per road (see Gerard, *Water Rights, Roads, etc.*, page 303). The question whether statutory provision was made for adequate compensation for lands taken for these old roads, belongs rather to the legal branch of the question and will doubtless receive very thorough investigation in the Law Department, so no attempt is made here to trace the statutory provisions.

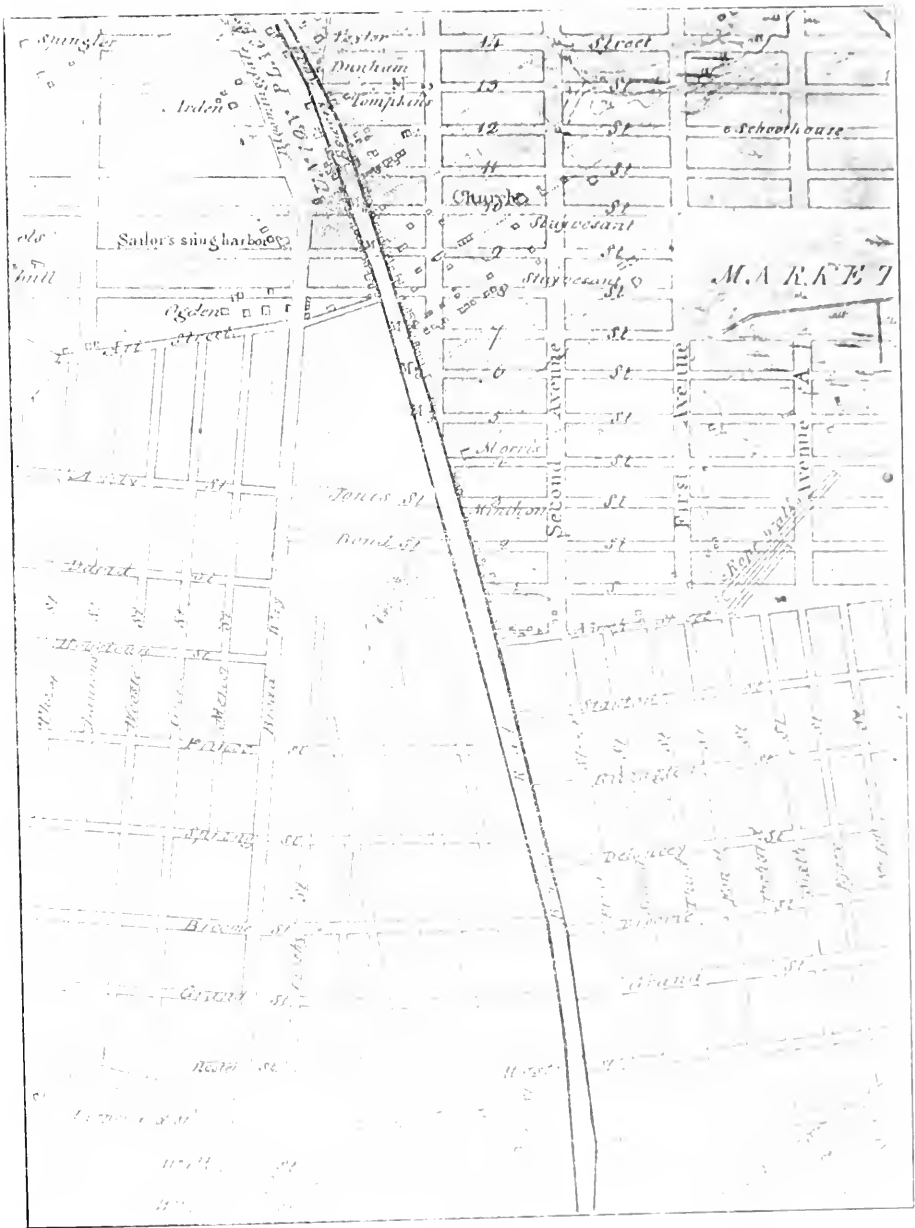
On May 25, 1903, proceedings were confirmed in the matter of acquiring title to Kingsbridge road from Webster avenue to Harlem River in the Twenty-fourth Ward of the Borough of The Bronx. In this proceeding a large portion of old Kingsbridge road was included within the lines of the new road and an award of one dollar was made to unknown owners. From this it would seem that no private individuals claimed any substantial interest in the road, and in view of this it seems not unreasonable to assume that the City owned it.

Following is the statement of the Engineer of Street Openings, Borough of Manhattan, contained in a letter of the Commissioner of Public Works, made in answer to inquiry as to whether Bloomingdale, Kingsbridge and the old Boston Post roads were ever closed in whole or in part by lawful authority:

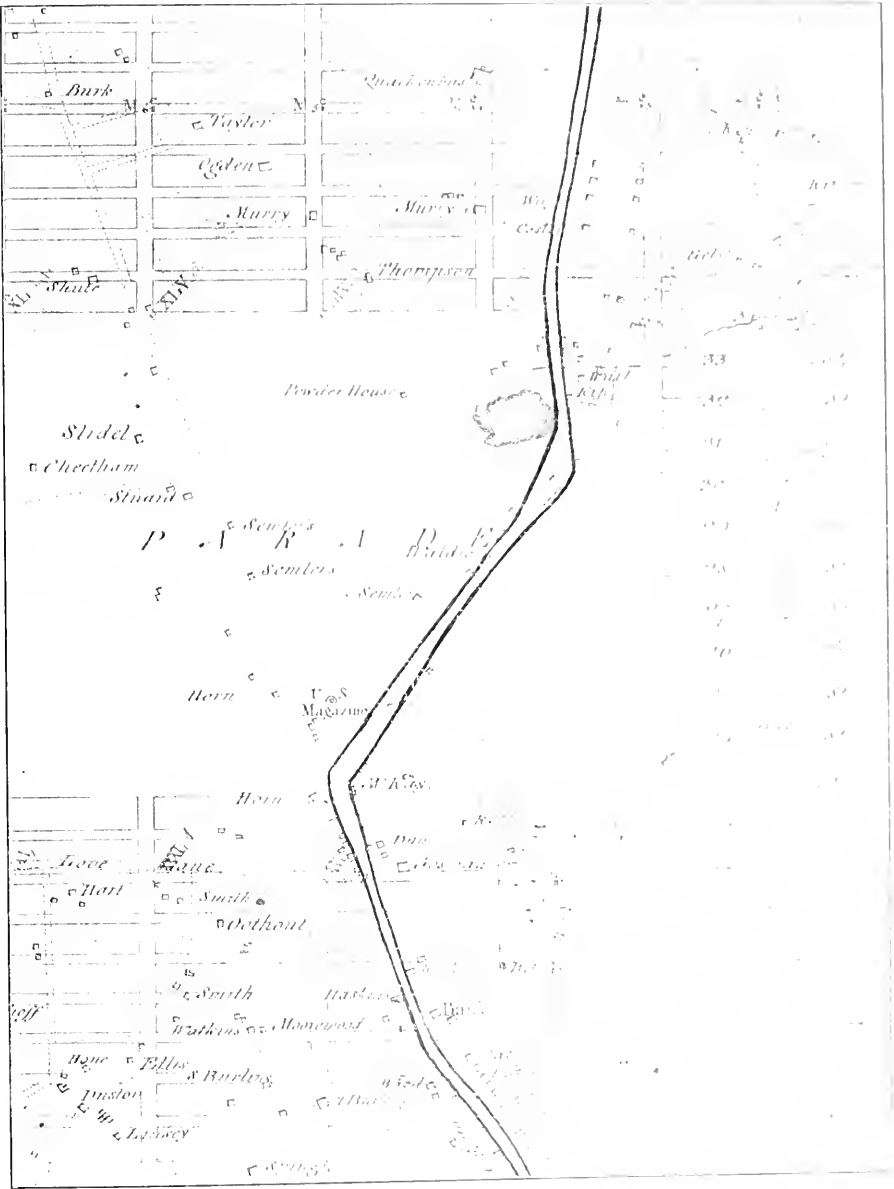
"I know of no legal closing of these roads. The custom of the Commissioners appointed before the year 1860 in opening all streets and avenues crossing these roads, to close the road and divide the property equally and award these parts to the abutting property owners, if it fell within the block lines to assess the area as private property for damage in the opening to be paid by the party receiving such land. I would suggest an examination of the taking of title to the Road or Public Drive now called Broadway from West Thirty-second street northerly to the end of Spivey Duvvil Creek, also the part of Bloomingdale road now taken for Riverside Drive and Park. This information should be in the office of the County Clerk and the Comptroller's office."



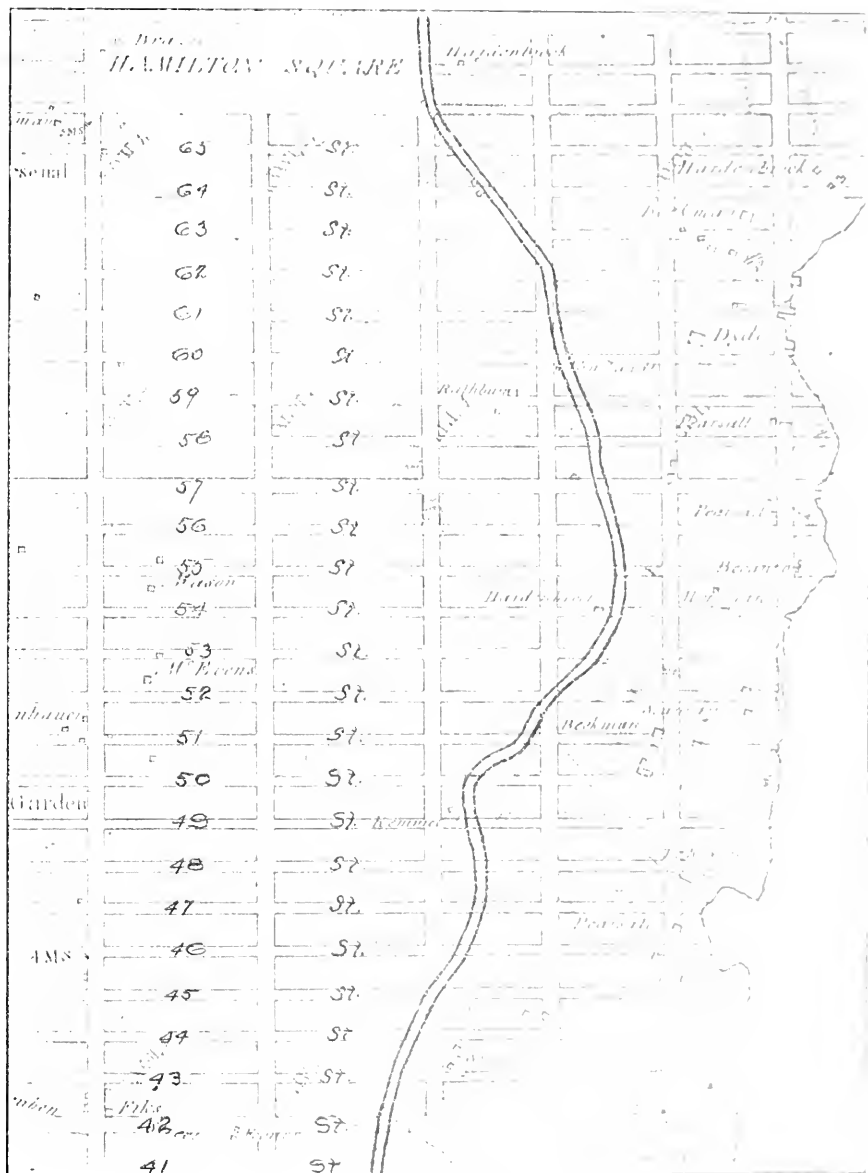
KINGSBRIDGE ROAD

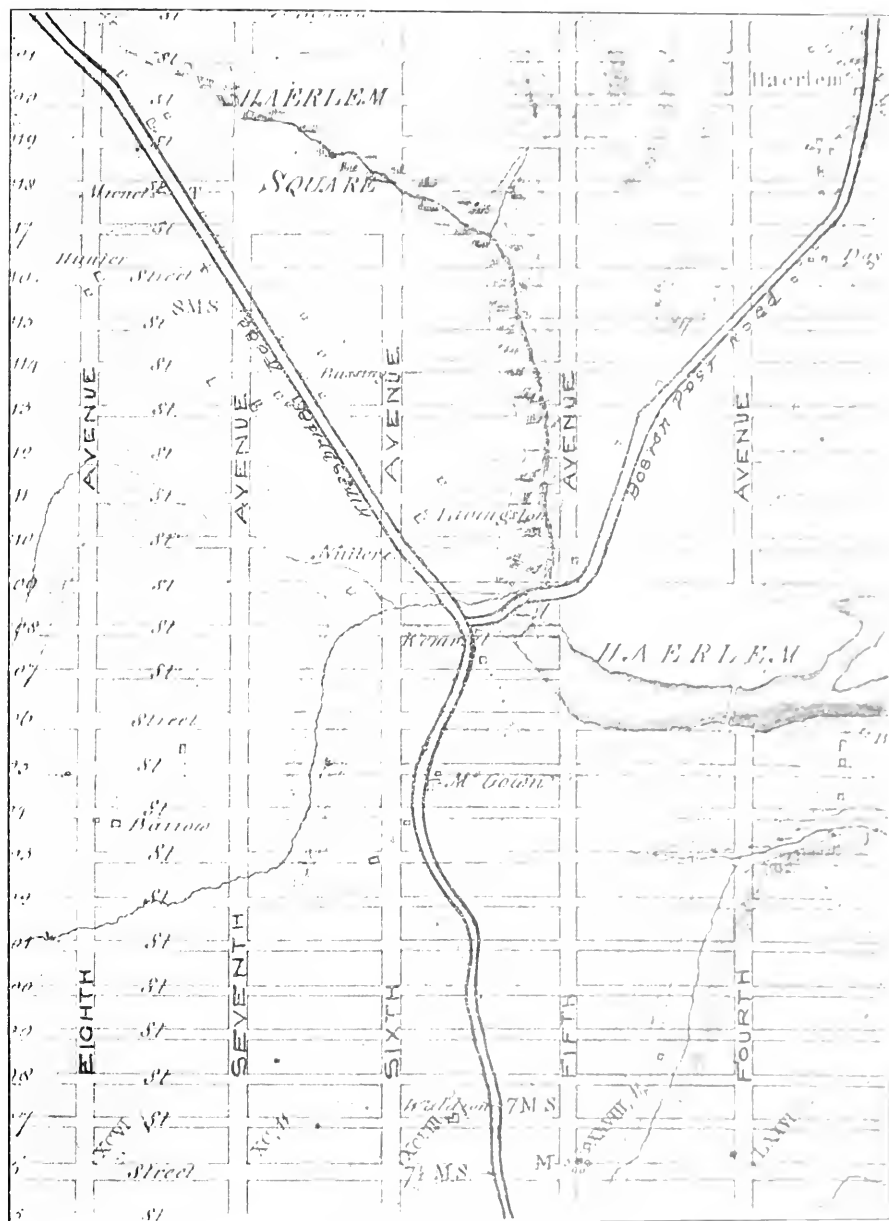


KINGSBIDGE ROAD

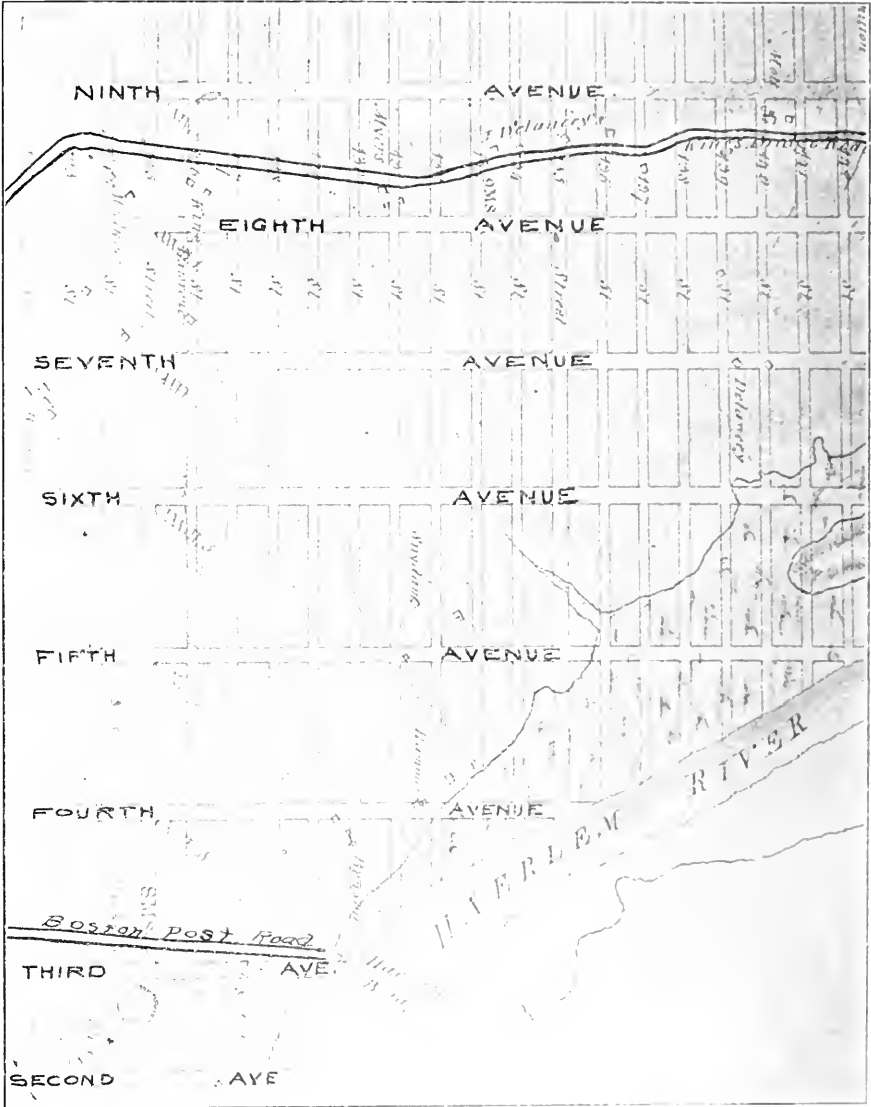


KINGSBRIDGE ROAD

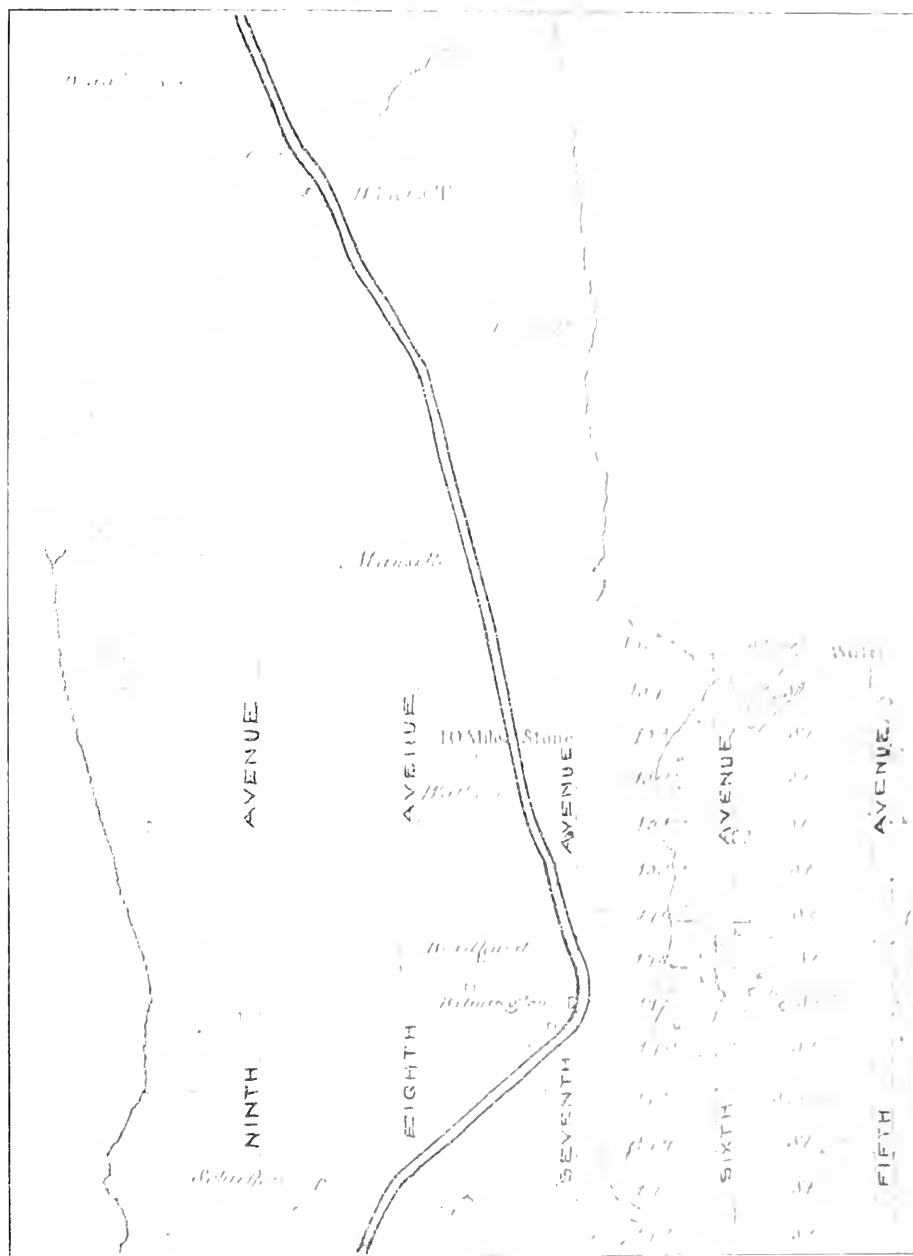




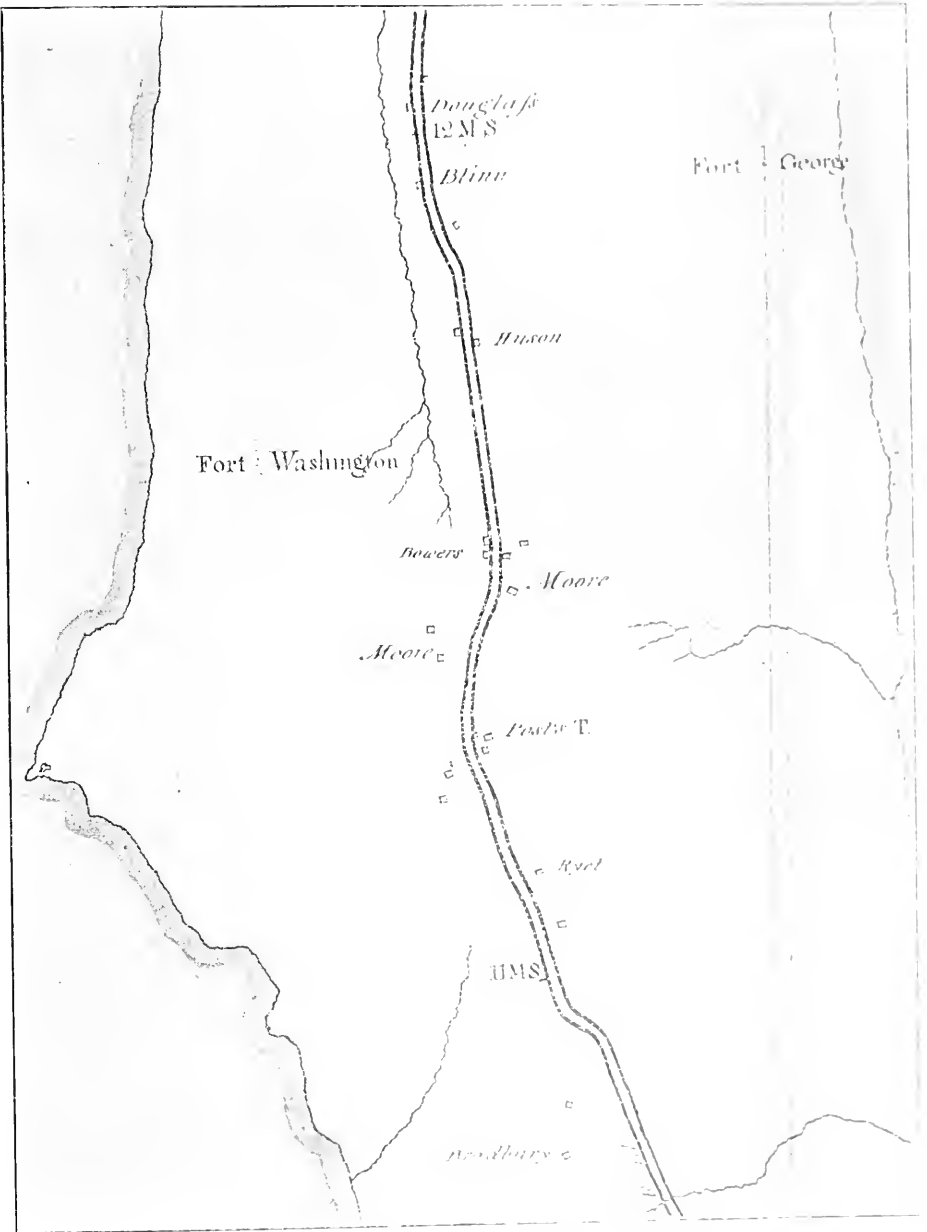
KINGSBRIDE - ROOMS



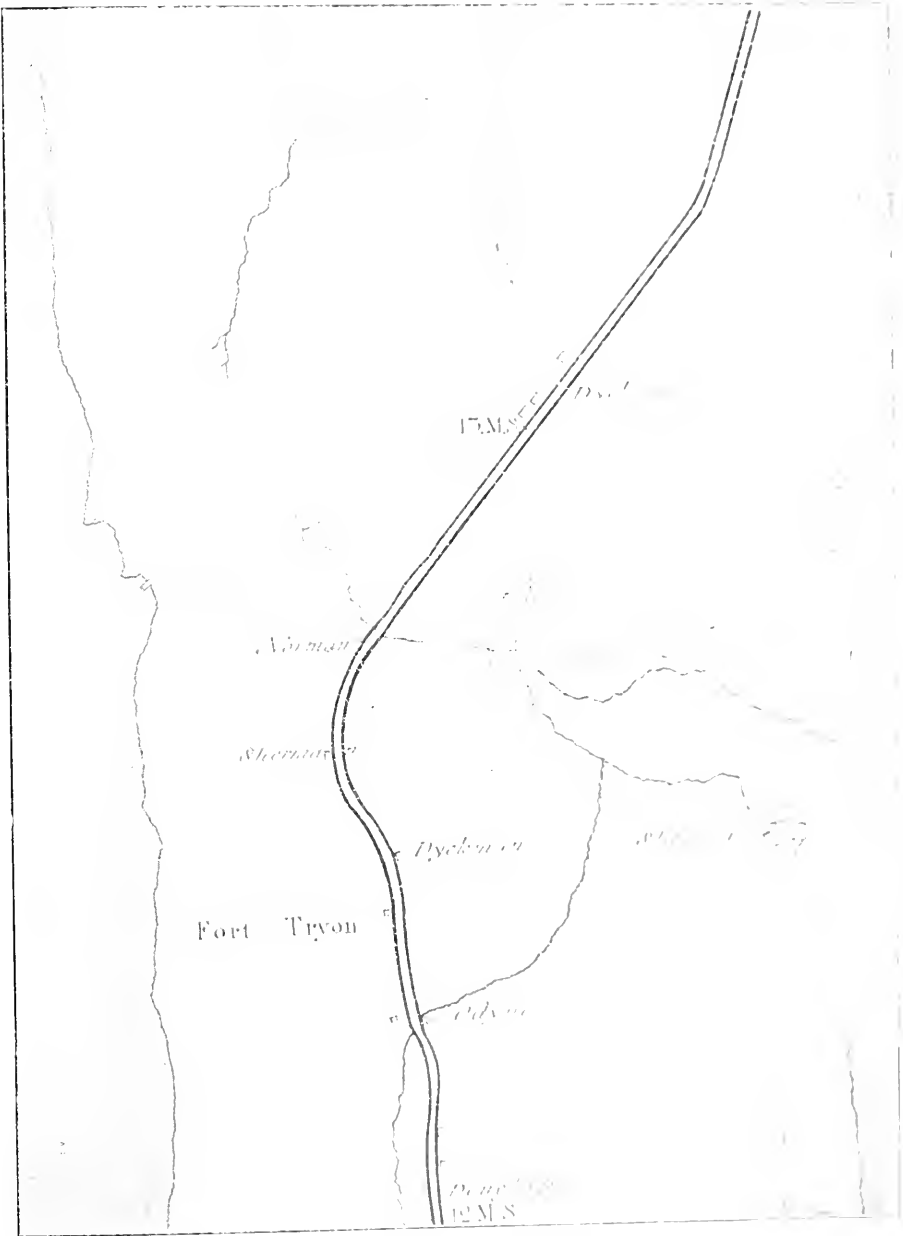
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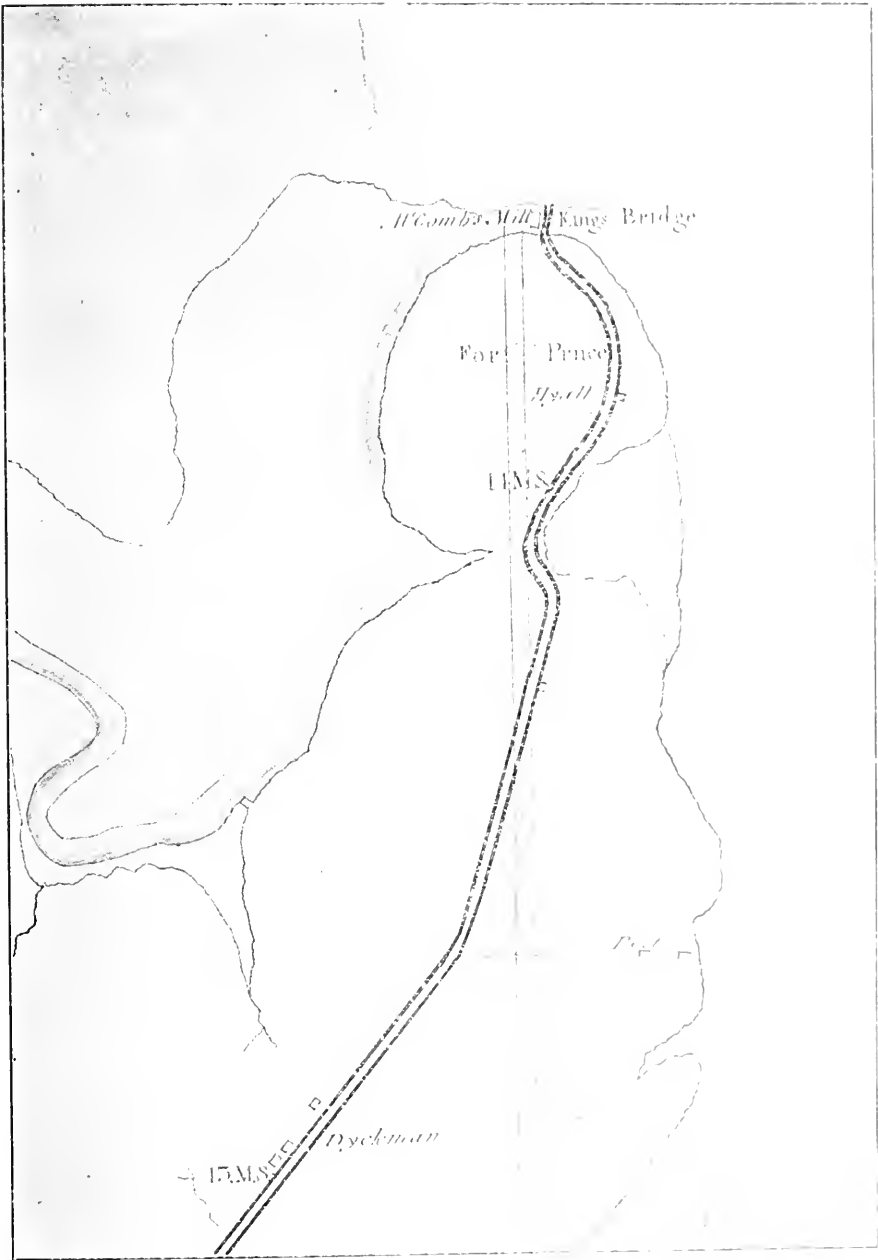
KINGSBRIDE, ROBERT



KINGSBRIDGE PL. A. 1



KINGSBRIDGE ROAD



KINGSBRIDGE ROAD

KYCKOUT ROAD.

Length, 3.9 Miles. Intersects 98 Blocks.

The data available at the present time which bears on the early history of this road is rather sparse, but it is quite evident from the works of reliable historians that the road was in existence at a very early date during the period of the Dutch occupation here.

The name is one that bespeaks in a measure of the character of the highway Kyckout, Kickout, Keikout, etc., for the name is variously spelled, means "lookout." The significance in connection with the road under discussion is this: In the very early days when Bushwick was but a cluster of huts and the country immediately surrounding it was a dense wood, there was considerable danger from the Indians. It is also a matter of record that the paleface brothers did not live together in the unselfish tranquility that those who sigh for the good old times would lead one to believe. So in order that the village and the settlers might not be entirely unprepared in case of attack, they established the lookout. This stood originally on the brow of a high bluff which was located just about where the Brooklyn tower of the Williamsburg Bridge stands now.

From the village of Bushwick to this lookout there was a road and this road was known as the road to the lookout or the Kyckout road. On the 14th of March, in 1661, Governor Stuyvesant visited Bushwick, and, it may be remarked incidentally, the place was not Bushwick until after the Governor arrived, for it was on that visit that he gave the place its name. While the Governor was there, the citizens applied to him for certain privileges. The third prayer of this petition read as follows:

"To have roads for the purpose of going to the river and kills, to wit: One road, between the land of Hendrick Willemse Baker and Jan Cornel; the second upon Direk Volkertsen (the) Normans Land, which is named the Woodpoint; the third over (Jacob) Steendams Land to come to Mispot Kill; the fourth over Albert de Normans Land to get hay and other things."

This quotation is taken from Stiles' history of Brooklyn, which quotes the petition in full. The original appears to have been lost, according to the authorities in the office of the Commissioner of Records in Kings County. Inquiry there as to whether his experts regarded the Kyckout as a Dutch road brought the following reply:

"In reply to yours * * * would say that we have always considered this road to be of Dutch origin. The records of the old town of Bushwick, bearing upon the roads therein, were lost some seven years ago, or rather disappeared from the County Clerk's office; hence we cannot refer you to them, but you will find extracts from them in Stiles' History of Brooklyn, Volume 2, page 320, which led us to the above conclusion."

The name Kyckout grew in popular favor, and later the water-front in the locality and also the Kyckout farm, were so named. The Kyckout farm was held originally by one Jean Meserole and for many generations remained in the Meserole family and the various branches thereof. The original Meserole built a house on the Kyckout bluff and in later years this became one of the favorite resorts of Captain William Kidd, who might be called the pirate with a press agent.

Dr. Stiles in his history of Kings County, speaking of the Kyckout farm, describes its partition, and says:

"There remained, however, a road or bridle path known as the 'Keikout road,' which seems to have dated from the very beginning of the settlement. It ran from the side of the village laid out around the old Bushwick Church, and down near the present North Second street to Tenth, near Union avenue. Then, turning southerly, and with various zigzags, now touching the present Ninth street, and again further south, intersecting Tenth street diagonally, it came to the present Broadway, near Ninth street, at the old Brooklyn line. It again turned west along or near said line, about a rod in width, to the shore of the East River. Then, turning northerly along the East River, it extended to Bushwick Creek, then 'Normans Kill.' It was doubtless a Pent road with gates of bars, separating the different farms through which it passed."

Under date of March 24, 1662, the people of Bushwick complained to Governor Stuyvesant in the following manner:

"The community of Boswyck find that the road formerly made around two swamps to reach the water is a quarter of a league longer than necessary, so that this road is of no use in times of war, for the owners of land threaten us (although the Director General granted us this wood), and take it by force and obstruct every passage to it. We find it is done out of hatred and we therefore request the Commissaries that the road shall run at the west end of the village one rod outside of the gate, right along the meadows, towards the old stubble field on the hill, to the spring of the water course, thence along the land of Henderyck the baker and Barent Gerretsen, so along the meadows and then in a straight line to the road to the woods. This is requested by the undersigned persons on the 24th of March, 1662." Signed by Elberhardt Heedeman and eighteen others.

The road referred to in the foregoing is believed by the experts of the Commissioner of Record's office to be the Kyckout road.

The question of what portions have been closed by lawful authority presents some difference of opinion. The Commissioner of Records has expressed the opinion that the road was closed by chapters 129 and 132 of the Laws of 1835, and chapter 384, Laws of 1854, but adds "we are unable to find any official action or report of the closing of the same."

The Topographical Bureau of the Borough President's office in Brooklyn reports as follows, on the closing of the road:

"I have found no records of the closing of this road under the name of the Kickout road. I have, however, a record of the closing of an 'Old Road,' which may be a portion of or all of the Kickout road in the village of Williamsburgh. This road is described as being near Tenth street (Keap street) and was closed by the trustees of the village of Williamsburgh, on August 18, 1851, with the exception of such portions as are included in the streets of said village."

To this may be added the statement that during an examination conducted in this office one of the petitioners was asked when the road was closed and replied that it was in 1852. Asked on what authority this statement was based, replied that it was on the authority of a statement made to him by the Lawyers' Title Company.

All of which is respectfully submitted.



KYCKOUT ROAD .





KYCKOUT ROAD.

LOTT'S OR LITTLE LANE.

Length, 1.5 Miles. Intersects 41 Blocks.

This road connected the main road with what was known as the road from Flatbush to New Utrecht in the days of the Dutch sovereignty. A part of the lane is still open and in use as a public highway.

In Dutch days this lane provided something of a short cut from Flatbush to New Utrecht and the shores of Gravesend Bay. The bay was then a place of much activity because of the valuable shore and water industries.

The Court minutes of Flatbush, under date of December 15, 1662, contain the following entry:

"Lubbert Lubberts asks for a house lot in this town Midwout, on the west side of said town, on the south side of the road and on the west side of the cross road, wide 6 rods, long 16.

"The request of Lubbert Lubberts was granted by sheriff and judges."

From the foregoing description and others in the locality, the property has been located by the searchers of the office of the Commissioner of Records in Kings County and "the road" mentioned was what is now known as Lott's lane.

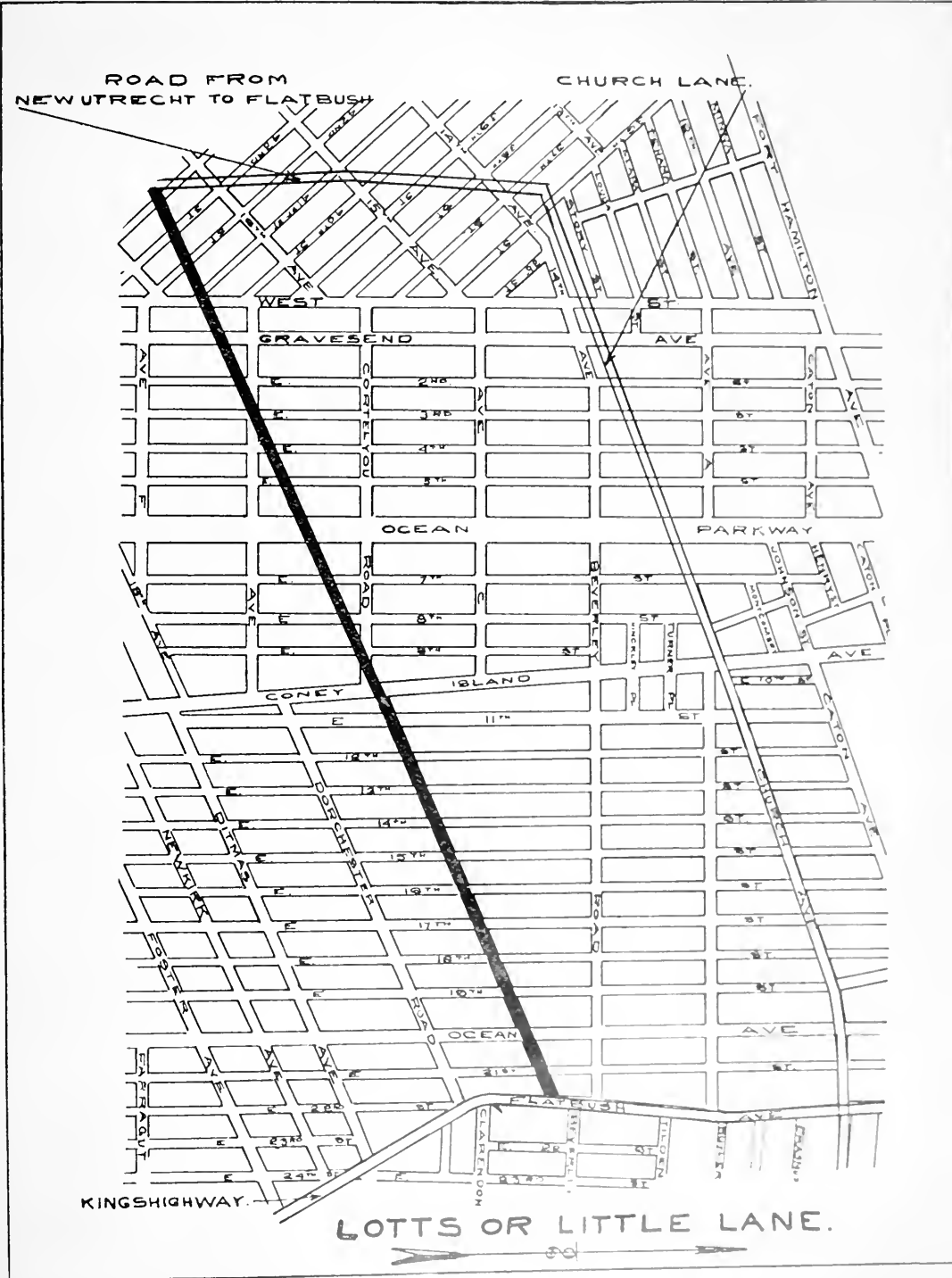
In the year following—on March 30, 1663—Jan Cornelessen Van Tassel offered security for the payment of a horse that he had purchased some time previous from Jan Eevers Bout. In the acknowledgment Van Tassel declared that he was "clearly indebted to the worthy Jan Eevers Bout to the extent of 50 bu. good marketable rye arising from purchase of a horse that I acknowledge to have received, which I promise to pay at Christmas next, anno 1663, exactly and to satisfy the same I pledge my person and property, especially my farm situated at Midwout, on the north side of the road, and on the south side of Alber Krenick which I place under obligation not to diminish or alienate the same before or untill that I have satisfied the above owed to Jan Eevers Bout." All of which was done before Wellem Jacobs van Borch and Hendrick Kores, judges of the town of Midwout.

Thus, Van Tassel's farm is definitely located as lying between Lott's lane and the Krenick farm. The Polhemus farm was just across the road to the south, so Lott's lane formed the boundary between them.

In view of the foregoing, there does not seem to be room for any reasonable doubt that Lott's lane is a Dutch road.

From the records of Topographical Bureau it appears that on November 9, 1891, Lott's lane, from Ocean parkway to Coney Island avenue, was closed. On December 31, 1903, Lott's lane, from Ocean parkway to East Second street, was closed.

That portion of the old road from Flatbush avenue to Coney Island avenue lies wholly within the lines of the present Avenue C, so no question of encroachment with releases is likely to arise in this section. The portion from East Second street westward is still in use.



NEWTOWN AND BUSHWICK TURNPIKE.

Length, 3.5 Miles. Intersects 72 Blocks.

History has not told how this road first came into existence, but, like many of the old roads, it was doubtless developed from an Indian path.

This road should be considered from two points of view, as the highway and as the turnpike; for what was known in later years as the Brooklyn and Newtown turnpike embraced an old highway in the Bushwick section and the Cripplebush road, which tapped the Bedford section. The road was one really connecting Newtown with Bedford and points on the Jamaica road, and names such as Cripplebush were localisms applied to certain sections. While the line between Bedford and Cripplebush was known as the Cripplebush road, the highway was continuous from Newtown to Bedford. This is a point that should be kept constantly in mind when considering the subject of old roads. Present or popular names applied to particular highways would lead to a hopeless end if one were to seek references in the early records to names that are familiar now. The reason is simple. Often a highway would have no special title that would be called merely "the road." At a later period some local name might be applied to the same highway, as, for instance, "Cripplebush," and thereafter it would be known as the Cripplebush road. From this it may be seen that a road is often very much older than its name. Hence, while this highway is often referred to as Cripplebush road and Brooklyn and Newtown turnpike, it is more accurate to describe it as the road from Bedford to Newtown.

The legal status of this road was recently considered by the Appellate Division of the Second Department in the case of *Caminez & Goodman v. Advance Sheets* for September, 1907, pages 484 to 488). The Court held unanimously that if the road was Dutch the fee was in the City and the Court then decided from certain historical references that the road was Dutch. The opinion written by Mr. Justice Gaynor follows:

"If the old road was a Dutch road the fee of it was in the City, after the law of the Continent of Europe, and its conveyance to the plaintiff's predecessors was good (*Dunham vs. Williams*, 37 N. Y., 251). The capitulation of Long Island by the Dutch to the English was in 1664. If the road existed at that time the plaintiff's case is made out. It is mentioned in *Riker's Annals of Newtown* (pages 83 and 84) as having been repaired in 1670, showing it to have been of some age then; and in *Ostrander's History of Brooklyn* (Volume 1, pages 101 and 102) it is mentioned as existing in 1662, when the Village of Bedford was laid out. It is therefore called 'the Cripplebush road running to Newtown.' As Bedford was between Brooklyn and Newtown and Cripplebush road between Bedford and Newtown, and there was only one highway from Brooklyn to Newtown, the identity of the road seems not to be open to dispute."

There are other references which possibly escaped the attention of the learned Judge, for the ancient records show that this highway was known by the following titles: "Highway running from the Kill-Kulls," "Old Highway and Most Ancient Highway," 1648; "Valley or Highway," 1654; "Valley or Path," 1654-55; "Het Kenis Paot" (the cross roads), 1661; "The Road," 1662. If the road was regarded as "an old highway and most ancient highway" in 1648 it is hardly necessary to seek the origin.

The life of the turnpike appears to date from 1814. The following laws relating to it have been found:

General Provisions.

Date, March 25, Laws of 1814, Chapter 72.

Incorporated the Newtown and Bushwick Road Turnpike Company for the purpose of "making" a good and sufficient turnpike road from the west end of the road of the Flushing and Newtown Turnpike Bridge and Road Company, in the County of Queens, to the east end of the road of the Wallabout and Brooklyn Toll Bridge Company, in the County of Kings.

Date, April 12; Laws of 1815, Chapter 175.

Amended chapter 72 of 1814 as to rates of toll. The company complained that stock could not be sold with toll rates as they were originally fixed.

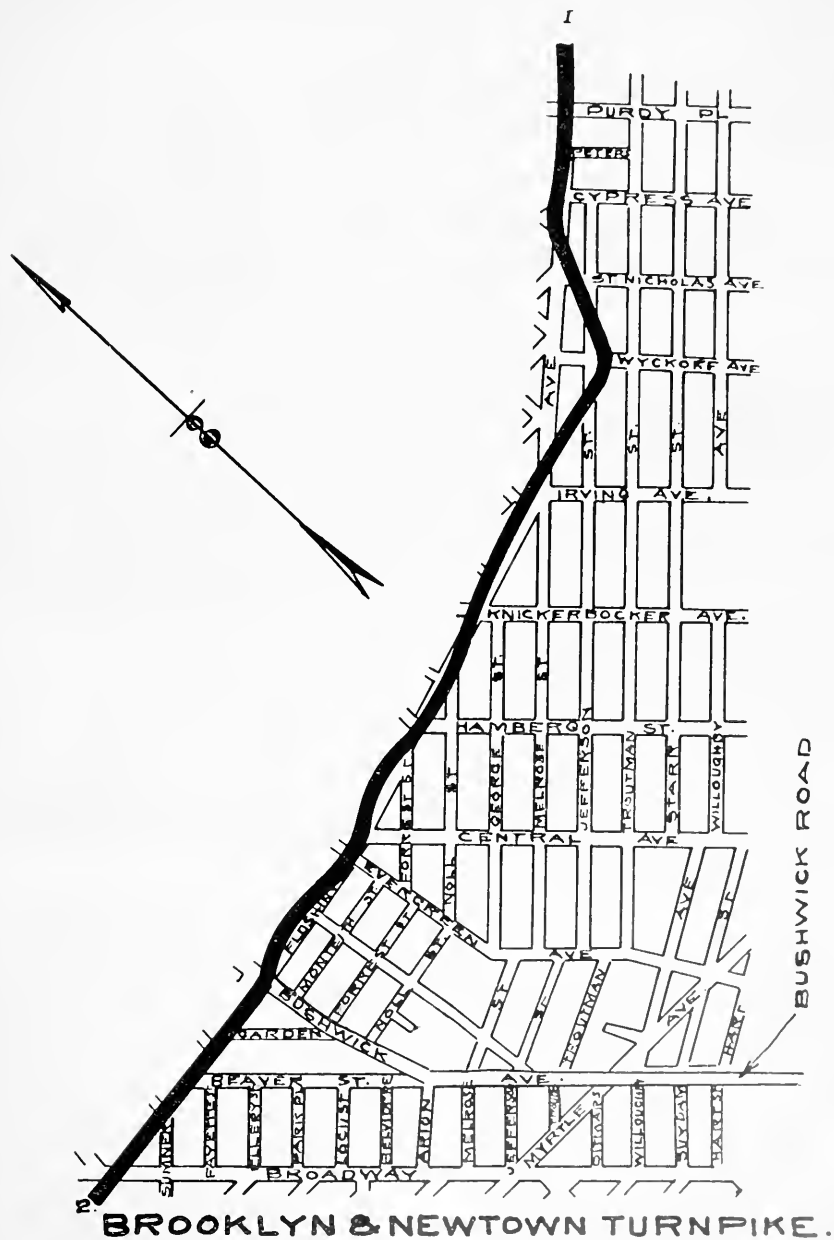
Date April 12; Laws of 1816, Chapter 122.

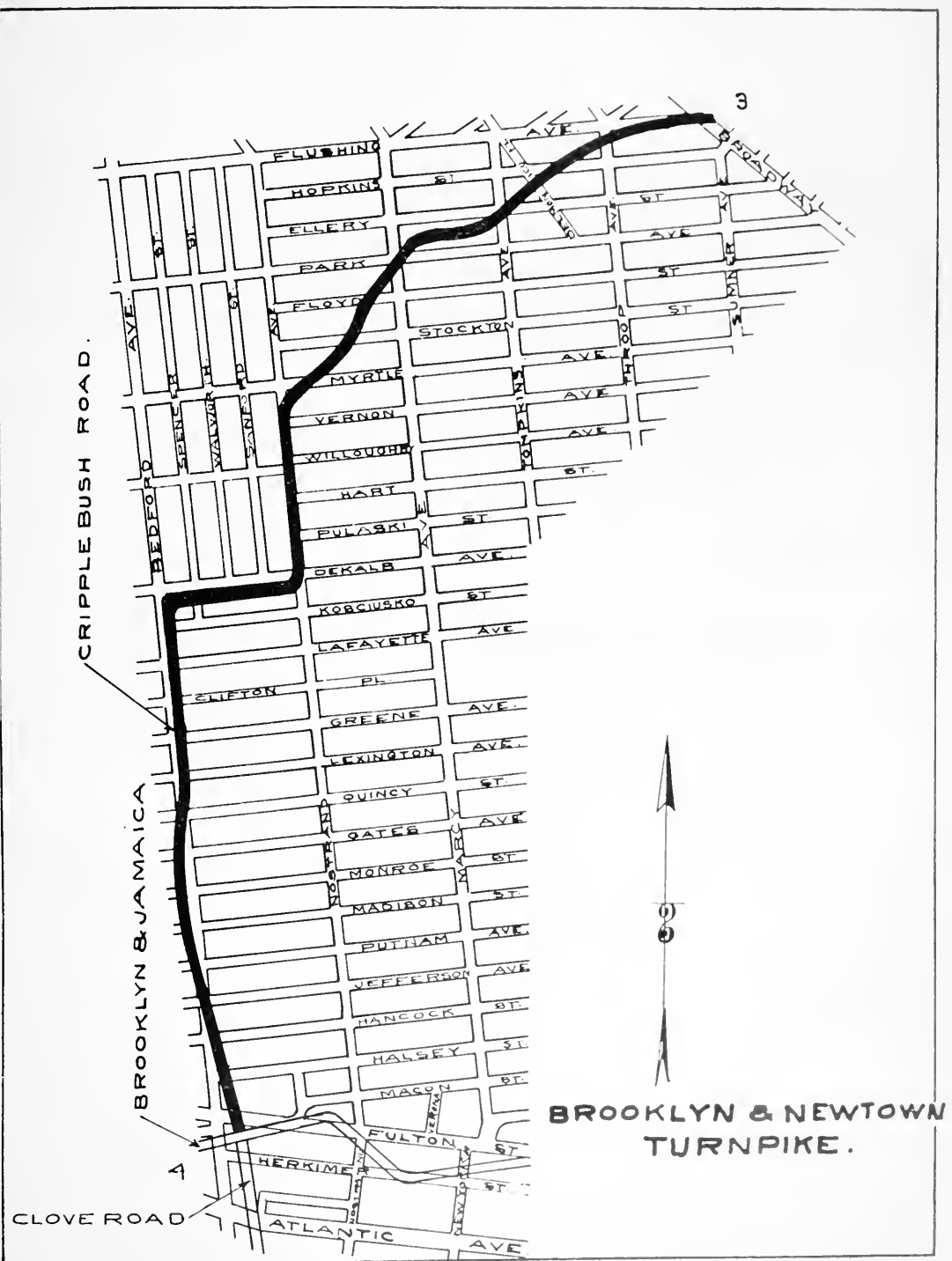
Amended original act by authorizing the appointment of two new directors to replace two deceased.

Date, April 4; Laws of 1833, Chapter 104.

Amended original act by authorizing five directors instead of seven, three of the five to constitute a quorum.

To sum up: The road from Bedford to Newtown, variously known as the Brooklyn and Newtown turnpike, the Bushwick and Newtown turnpike, the Cripple-bush road, etc., as a Dutch road, and has been so designated by the unanimous bench of the Appellate Division of the Second Department. In addition to the authorities cited in the opinion of the Court, there are others showing the road to be one of great antiquity.





WOODPOINT ROAD.

Length, 2.7 Miles. Intersects 55 Blocks.

This road traversed the old Bushwick section. It began at about Conselyea and Humboldt streets and followed a crooked course to the head of Normans Kill (Bushwick Creek), which, in the early days, was at a point near the present intersection of North Fourteenth street and Driggs avenue.

Bushwick was one of the earliest settlements made within the present limits of Kings County. In order to trace the settlement from the very beginning, it will be necessary to refer briefly to conditions on the Continent of Europe in the early part of the seventeenth century.

Religious troubles had divided many countries, and the spirit of intolerance of religious freedom drove many from their native lands. In Holland the refugee found the greatest liberty, and consequently that country became the temporary home of many nationalities.

Among the refugees were a considerable number who had fled from Normandy to escape the rigors of religious persecution. When Henry Hudson's report of his voyage was made known in Holland, the commercial spirit of the Dutch was kindled and plans were advanced to settle the new possessions. The new world opened a field free from religious restraints, and so when the first Dutch expeditions started they carried many of the refugees.

At a very early date, the exact date has not been ascertained accurately, a party of the refugees left New Amsterdam and sailed up the East River to Bushwick Creek. Entering here they made a landing and named the stream Normans Kill, by which name it is referred to on old maps. No political community was formed at that time, each individual squatting on land that his eye fancied; but for protection against the Indians there was naturally a common tendency toward a centre, and that centre was afterward the heart of the Town of Bushwick. The exact spot is defined today by the Old Bushwick Reformed Church, Humboldt and Conselyea streets, which stands exactly where the first church building stood. The road leading from Normans Kill to the centre of the settlement was the old Woodpoint road. It may have been the first road trodden by white men in that section.

While it is not known exactly when the first settlers landed on the shores of Normans Kill, it was probably about 1630, and certainly before 1638. On August 11, 1638, Director General Kieft purchased from the Indians for the West India Company all the land that was embraced within the old town of Bushwick, and a considerable portion of what is now commonly known as the Eastern District. The price paid was eight fathoms of duffel cloth, eight fathoms of wampum, eight axes, twelve knives, eight axes and some knives, corals and awls.

I have treated this point at some length because the point has been raised that the West India Company and the Governors of New Amsterdam did not have jurisdiction over outlying settlements.

Below there is more convincing evidence of Dutch authority.

After the purchase the settlers took out patents from the Director General for the lands on which they had squatted.

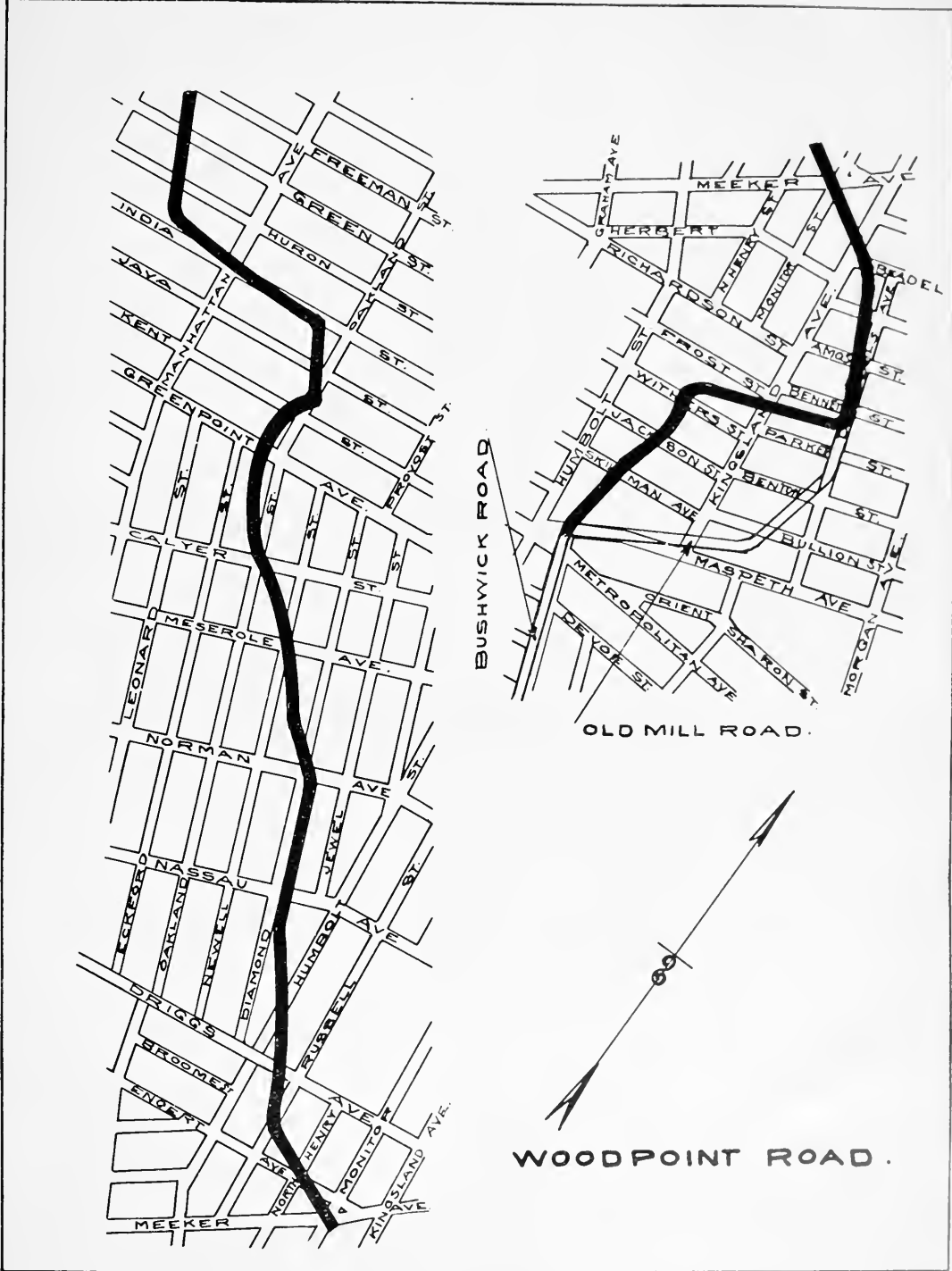
In 1640 the Bushwick Church was erected, facing on the Woodpoint road. Close to this edifice, on the same side of Woodpoint road, was the school house, and just across the road was the town house. This section was called *Het Dorp*, or the town plot, of Bushwick.

On March 14, 1661, Governor Stuyvesant visited Bushwick, and after he had been properly regaled after the manner of the times, was asked to give a name to the place. The Governor called it "*Boswijck*," which meant Town of the Woods. Early histories spell the name in various ways and give different interpretations of its meaning, but all agree that the place derived its name from the dense woods that covered the section.

In 1661 the old Bushwick Church and the Town of Bushwick were incorporated by Governor Stuyvesant, and Bushwick became known as one of the five Dutch towns, and Governor Stuyvesant issued a patent or ground brief to it. The five Dutch towns were Brooklyn, Flatbush, Flatlands, New Utrecht and Bushwick. A register was especially commissioned by the Director General, whose duty it was to go to the towns and take proof of wills, marriage settlements and the like. The five Dutch towns had a further community of interest in that they formed one ecclesiastical congregation. These facts would seem to effectually dispose of any theory that the Director General was without authority in outlying towns. Evidence of such jurisdiction might be multiplied, but that is hardly necessary here.

The road had an interesting history in Revolutionary days, but it is not the purpose of this report to do more than establish that the old Woodpoint road was a Dutch road. There is no room for reasonable doubt that it was, although often referred to in official documents by various names, to wit: "The Road to the Woods," 1662; Village road, 1663; road to Woodpoint, 1663; road to Normans Kill, 1663.

Portions of the old Woodpoint road are open to-day and are being used as public streets. From Maspeth avenue to Withers street the road is still in use, and in front of the old Bushwick Reformed Church the road is just as open to-day as it was two hundred and fifty years ago.



APR 16 1957

